

November 28, 2006



**TRANSCRIPT
November 28, 2006**

MONTGOMERY COUNTY COUNCIL

George Leventhal, President	Marilyn J. Praisner, Vice President
Phil Andrews	Howard Denis
Nancy Floreen	Michael Knapp
Tom Perez	Steven A. Silverman
	Mike Subin



November 28, 2006

1 Councilmember Praisner,
2 Good morning, ladies and gentlemen, the Council President has asked me to begin the
3 meeting. So we have someone for invocation: Mr. Steven Sharkey from First Church of
4 Christ Scientist, Chevy Chase. Can we all stand, please.

5
6 Steven Sharkey,
7 Good morning. I offer a couple of verses from the Bible, followed by a prayer. From
8 James, "Draw nigh to God, and He will draw nigh to you." From Proverbs, "Trust in the
9 Lord with all thine heart and lean not unto thine own understanding. In all thy ways,
10 acknowledge Him and He shall direct thy path."

11
12 Let us pray. Our Heavenly Father, with humble hearts we seek Thy guidance and
13 protection. Fill our hearts with Thy love that knows no boundaries. Fill our minds with
14 Thy wisdom and intelligence. Fill our being with Thy grace and beauty that all our
15 thoughts, words, and actions serve Thee. We show our love for Thee by the love we
16 show our fellowman. In God's grace, Amen.

17
18 Councilmember Praisner,
19 Amen. Thank you very much. Please be seated. Agenda and calendar changes,
20 Ms. Lauer.

21
22 Ms. Lauer
23 There's an additional item for the consent calendar today. We're adding Introduction to
24 Supplemental Appropriation for the Community Grants Nondepartmental Account,
25 \$360,000 for the Takoma Park Community Center, Phase 3. A Public Hearing is
26 scheduled for December 12th at 11:30 a.m. At 10:20 this morning,
27 Introduction/Suspension of Rules and Action on a Resolution regarding future
28 elementary school sites in the Shady Groves Sector plan area. That will require a vote
29 to suspend the rules of procedure. Thank you.

30
31 Councilmember Praisner,
32 Thank you.

33
34 Ms. Lauer
35 We do have one—two petitions that were received this week: a petition from the
36 Neighbors of North Springbrook supporting a public access solution involving the O'Neill
37 property as well as a petition from members of the Rollingwood community in Chevy
38 Chase supporting municipal incorporation. Thank you.

39
40 Councilmember Praisner,
41 Okay, minutes.

42
43 Ms. Lauer
44 We have the minutes of October 24th for approval.



November 28, 2006

Councilmember Praisner,
Ms. Floreen. Is there a second?

Councilmember Silverman,
Second.

Councilmember Praisner,
Okay. The minutes of October 24th, a motion made by Ms. Floreen; second by
Mr. Silverman; all in favor? That is unanimous among those present. We move to the
Consent Calendar; is there a motion?

Councilmember Floreen,
So move.

Councilmember Knapp,
Second.

Councilmember Praisner,
Ms. Floreen. Second, Mr. Knapp. Any items that councilmembers would like to discuss?
Mr. Silverman.

Councilmember Silverman,
Well, Mr. Denis isn't here; so I was going to filibuster the consent calendar by –

(Laughter)

Councilmember Praisner,
(Laughing) By –

Councilmember Silverman,
-- by reading the appointment of all of the names of the people –

Councilmember Praisner,
-- Into the record –

Councilmember Silverman,
-- who have been appointed to this. But I will make one comment about Item W, which I
think is actually important. This is the first time, despite the fact that the law has been in
place for years, that there's an actual Department of Permitting Services Advisory
Committee; and I think it's a good, representative group of folks, and I'm glad that that'll
be up and running to be able to continue the reforms that we enacted over the past
year.



November 28, 2006

1
2 Councilmember Praisner,
3 Any other items that anyone would like to comment on? Mr. Andrews.

4
5 Councilmember Andrews,
6 I think on days like this – you know, final days before a session or final days of a recess
7 – that we tend to have a long consent calendar; and what you can see on this calendar
8 is evidence of the amount of community participation in Montgomery County
9 government. We must have a hundred or so people being appointed to various
10 community boards today. And one of the great things about this county is the great
11 choice we have. Whenever we have an opening for positions, we normally have many
12 more than the number of spots available in terms of applications, of qualified people
13 applying, and a lot of people have helped to make this a great county and continue to
14 do so; and all of us up here thank our constituents for their service to the county.

15
16 Councilmember Praisner,
17 Well said. If there are no other comments by councilmembers, the consent calendar is
18 in front of us. All in favor indicate by raising your hand; unanimous among those
19 present. Nancy, you wanted to comment on something?

20
21 Councilmember Floreen,
22 Mr. Orlin has just reminded me that the T&E Committee recommendations for the
23 advance taking were not on the – reflected on the agenda; and since we've moved and
24 approved it that's fine, but they are for Item 2I and 2J.

25
26 Councilmember Praisner,
27 And –

28
29 Councilmember Floreen,
30 So the committee recommendation from its meeting yesterday were to advance those.

31
32 Councilmember Praisner,
33 And both of those resolutions had some modification to them as I recall.

34
35 Councilmember Floreen,
36 Yes.

37
38 Councilmember Praisner,
39 Okay. All right. If nothing else then on the Consent Calendar, folks can go down to the
40 sixth-floor conference room and get Verizon and County Government staff, we will move
41 to the resolution regarding the approval of the Franchise for the Use of the Public Right-
42 of-Way by Verizon Communications. While folks are joining us, Mr. Leventhal has been
43 able to join us as well, we've just done the Consent Calendar and the Minutes if you
44 want to be recorded, George.



November 28, 2006

1
2 Council President Leventhal,
3 No. Actually I was talking to the – talking to Channel 4 about the Green Buildings Bill.
4 Good morning, everyone. Could I please be recorded as in favor of the consent
5 calendar and the minutes?
6

7 Councilmember Praisner,
8 Okay. So that's fine. We now have six votes for the consent calendar. Thank you. If you
9 don't mind, Mr. President, I'll take over as Chair of MFP on the Verizon franchise which
10 is –
11

12 Council President Leventhal,
13 Is that where we are?
14

15 Councilmember Praisner,
16 That's where we are.
17

18 Council President Leventhal,
19 Okay. Chairwoman Praisner.
20

21 Councilmember Praisner,
22 Thank you. I think the staff from the county is here, and folks from Verizon were in the
23 6th floor conference room waiting. I'm assuming someone has gone to get them. If --
24 Mr. Dennis has arrived as well. Mr. Denis, would you like to be recorded on the consent
25 calendar and the minutes?
26

27 Councilmember Denis,
28 Yes. Thank you.
29

30 Councilmember Praisner,
31 Thank you. Before we begin my walkthrough and Sonya's comments, I think it would be
32 helpful if folks at the table would introduce themselves starting with Sonia.
33

34 Sonya Healy,
35 Sonya Healy, Council staff.
36

37 Allisoun Moore,
38 Allisoun, Moore, Department of Technology Services.
39

40 Jerry Pasternak,
41 Jerry Pasternak, Special Assistant to the County Executive.
42

43 Bill Roberts,
44 Bill Roberts, president, Verizon.



November 28, 2006

1
2 Councilmember Praisner,
3 You need to push the button. Our technology's not that good (laughing).

4
5 Bill Roberts,
6 I'm Bill Roberts, president of Verizon, Marilyn.

7
8 John Raposa,
9 John Raposa, Vice President and Deputy General, Council Video, Verizon.

10
11 Lori Edwards,
12 Lori Edwards, Cable Negotiator, Verizon.

13
14 Rhonda [INAUDIBLE],
15 Rhonda [INAUDIBLE] Assistant Vice President for Verizon, Maryland.

16
17 Councilmember Praisner,
18 The Management and Fiscal Policy Committee has considered the Verizon franchise
19 request; and up until late yesterday afternoon, we were continuing the negotiations
20 associated with issues that still were outstanding. I must say, though, that the T&E
21 Committee wins the prize as far as the Council is concerned since after we completed
22 the Verizon fran- -- this is not Verizon being passed out, this is T&E -- the T&E
23 committee was still meeting, so they win the endurance test. The franchise we have in
24 front of us is a franchise for Verizon to provide cable service in the county. The
25 committee had a series of discussions with Verizon and the county to understand the
26 status of the agreement when it came over from the county executive, and to review the
27 issues which Sonya identified as ones where the committee might want to focus its
28 attention. In addition, as I said to the committee meetings, I did have other additional
29 meetings with representatives from Verizon to attempt to find a compromise on
30 language that was still an issue of concern between the two entities. What I'm going to
31 do in the interest of time is highlight in the addendum packet which should be -- you all
32 should have received; if not, we can make sure staff gets a copy for you -- the
33 addendum relates to the issues that were resolved either at the committee meeting
34 yesterday or in further conversations with myself after the meeting. The packet that you
35 have from the Council -- for the Council session, is obviously not the latest packet as far
36 as the resolution is concerned, nor is it the latest packet as far as the issues. I'd be
37 happy -- or Sonya, and I'm sure representatives from Verizon or the county executive --
38 we also do have Andrew Appleback who provides technical assistance to the county;
39 Jane Lawton who's the cable administrator; and Nick Miller who's the outside counsel
40 for -- for the county also in the audience should individuals have questions. And I'm sure
41 they can come up to the microphone to answer any questions one might have. In
42 addition, representatives from the municipalities were present, as well as obviously
43 interested other business entities, including others who have franchise agreements with
44 the -- current franchise agreements with the county; namely Comcast. We really heard



November 28, 2006

1 very little, if anything, from RCN as it relates to this franchise. We did hear more from
2 Comcast; and I think some of the concerns that Comcast raised, you will learn as we go
3 through the outstanding issues I believe have been resolved to – and Cliff Royalty is just
4 making an entrance now, the county attorney who has spent a considerable amount of
5 time on these issues as well. Thanks for being here, Cliff. So I'm not going to go through
6 the full packet, unless there are questions on those issues. I want to highlight in our
7 conversation the changes since the packet that you had over the weekend came to you;
8 and those are in the addendum, basically. But I do want to highlight one issue that
9 because there were representatives from Poolesville here, and I do want to comment on
10 the change that was agreed to by Verizon and the committee that responds to a
11 concern we heard from the town of Poolesville about the length of time and the
12 likelihood of service of delivery to the town. As you know, there are three stages of
13 deployment. What Verizon assures us is those years associated with the stages are the
14 “out” years, and they have every hope and expectation to be able to move even more
15 aggressively to deploy. There are technical issues. The cable service, in the traditional
16 way that we know it with nodes and then deployment to certain households, is a little
17 different under the Verizon model; and if folks are real technical junkies. They certainly
18 can – we can have some conversation about that. Just suffice it to say that Verizon
19 uses their telephone centers; and those telephone centers -- I would call them
20 “exchange centers”; I’m probably using a very old fashioned term -- but the centers are
21 basically the way in which they begin their deployment, and each of those centers has
22 to be able to be brought up to a technical capacity to be able to deploy the FiOS for the
23 cable system service delivery. There are some issues associated with some of the
24 technical centers that we’re talking about as far as the timing and the technology; and
25 that’s why you see, to some extent, the staging that we’re talking about. One of the
26 issues that came up -- and I think I saw, yes, the representative from Rockville here --
27 one of the issues that came up is a concern that Rockville raised about the fact that
28 their municipality will not receive all the service at the same time. That’s a function of the
29 boundaries of the city of Rockville and how they receive service as it relates to Verizon.
30 There are also some other issues being discussed between the city and Rockville; and
31 we’re hopeful that they will be able to resolve them, but it’s our understanding that
32 Rockville does not oppose the franchise. We have been engaged in negotiating for the
33 municipalities, with the exception of Gaithersburg, I believe, which has been doing their
34 own negotiations. So the concern about the deployment is an issue of the threshold of
35 numbers of households in the outer extended area as identified by Poolesville -- but not
36 exclusively Poolesville -- and the fact that the threshold numbers originally proposed
37 from the standpoint of subscribers and service area were not likely to be achieved in the
38 short term, let alone the question about when, given the fact that we continue to have
39 the commitment to the Ag Reserve and a less dense population service area in the
40 Upcounty. What was proposed by Verizon was then counter proposed by myself --
41 Mr. Knapp and I working together on this issue -- and what Verizon has agreed to from
42 a service area perspective is that when they reach a threshold of 75,000 subscribers,
43 within three years of that threshold they would then provide that service to that area --
44 the Poolesville area – the extended area. I think that’s a very reasonable compromise



November 28, 2006

1 and approach, and it's one that I recommend -- and I believe Mr. Knapp also
2 recommends -- be accepted by the Council. It has also been shared with
3 representatives from the town of Poolesville, and I think they're reasonably comfortable
4 -- I see heads nodding -- with that approach as well. Let me also say that the committee
5 recommended approval of the franchise with a couple of issues outstanding. I have
6 since worked through those issues with Verizon, and I personally recommend approval
7 of the franchise as it appears before you at this point. Let me also say that because of
8 the timing to allow the Council to deal with this today -- meaning this Council -- as
9 opposed to carrying it over for the next Council next Tuesday or the following Tuesday,
10 the redlining of the franchise agreement has not been completed. Sonya worked -- I
11 think she matched the T&E Committee, or may have exceeded it last night in order to
12 try and prepare the papers for you -- and didn't feel comfortable, and I support her
13 position of taking the -- extending that time to do the redlining when she didn't -- wanted
14 to be very careful about that. So the redlining is not in front of us at this point, but we will
15 obviously do as we've done in the past. This is generally an approval with the authority
16 for the staff to go forward. If any issue arises in the review of the redlining, that the items
17 could come back to us next Tuesday, and we can see what they are. But I am extremely
18 confident that we will not have that issue come before us next week. Okay. I -- the basic
19 issues that we had the most dialogue about, I want to stress with my colleagues, did not
20 resolve asking for more for the county or more for the government. The basic issues
21 that the committee focused on, that we wanted modifications to, dealt with customer
22 service issues; dealt with the capacity of the cable office to be able to track the issues
23 that it needs to track; dealt with the way in which one calculates customer service
24 requirements and issues so that we can be assured that the similarities between the two
25 franchises help our consumers to know that they are getting a level playing field -- an
26 equitable playing field -- and also such that we can ensure, from a regulatory process,
27 that we have the kind of information we need and that we can monitor the service
28 delivery requirements to our subscribers -- their subscribers, our constituents. So the
29 issues that were outstanding revolved around the customer service issues; and I know
30 some of you will have also heard, as have I, from Comcast which was concerned about
31 customer service differences between the two franchises. Some of that -- and I think
32 Mr. Pasternak and I agree, we both made comments yesterday -- there is no
33 requirement that this franchise look exactly like any other franchise, and that is not the
34 goal nor is that the litmus test that one uses to approve a franchise. On the other hand,
35 there are some things that we felt very strongly about needed to have some measure of
36 consistency from a consumer perspective. There are differences as far as public
37 building deployment. There are differences as far as some of the other language
38 associated with this franchise. In the full packet you will see those; but there are also, I
39 think, significant benefits to our residents as far as competition and significant benefits
40 to, I think, business in general. One of the issues speaking about business was a
41 concern that this deployment is a residential deployment, not a business and residential
42 deployment. We were able in the negotiations to clarify the goal and intent to assure
43 that should FiOS have a business component, that Montgomery county residents and
44 businesses will have the option and the benefit of that as well. We also clarified some of



November 28, 2006

1 the multifamily dwelling units requirements to make sure that there were some
2 questions related to technology which I believe had been resolved and clarified by
3 Verizon; and obviously they can't go into a multiunit building unless there is a request,
4 but the options would be available given their technology. Okay. The packet before you
5 – the addendum -- deals with the issues that were negotiated at the -- most recently.
6 One was -- the issues related to system outage and repair time and credits, all of which
7 in the final negotiations it is my understanding -- and Mr. Raposa, I don't think you would
8 disagree; but certainly you have an opportunity -- Verizon's agreed to accept, in
9 essence, the same policies that the county applies to Comcast and RCN on those
10 issues for consumer credits, refunds, etc.

11
12 John Raposa,
13 That's correct, Mrs. Praisner.

14
15
16 Councilmember Praisner,
17 Thank you. The one issue that I've heard a lot about from my colleagues and boggles
18 some of our minds -- but again, Verizon would be happy to share that information with
19 us as far as the technology, the systems that they've purchased. I saw their expert
20 somewhere in the room, and she did a very good job yesterday -- just want to pass that
21 on to the president -- about explaining what happens in the rolling of the process of a
22 call through the centers; but, as my colleagues have all said to me, they found it hard to
23 believe that Verizon -- the telephone company we all know -- I won't say "and love" -- but
24 know, cannot -- does not have a system that can desegregate the calls by jurisdiction,
25 especially usually using the telephone exchanges or information. But what we were told
26 -- continually told -- is that at this point the systems that they purchased do not permit
27 that to happen. I can't resist a little side comment that maybe at that point Verizon
28 thought they wouldn't have to deal with LFAs -- meaning local franchise authorities.
29 They now, given the multiple franchises that they have and, I think, a good business
30 plan to be able to know what's happening in your different jurisdictions, we've
31 encouraged and suggested -- in fact at one point, I suggested that as long as there was
32 no ability for the county to know this, it was really hard for us to monitor. Perhaps a
33 higher percentage threshold requirement for compliance would be appropriate. As of
34 last night, what Verizon representatives have agreed -- and we did negotiate the
35 language on a laptop as we discussed this -- has agreed that they are committed to
36 providing the call answer time on a county-specific basis and anticipate deploying the
37 functionality for Montgomery County by January 1, 2008. The issue, of course, is going
38 to be the county-specific exchanges; and myself, living on the edge of the county, know
39 that those exchanges do not necessarily correlate to the boundaries of a jurisdiction.
40 But they are committed to working with the county cable office to be able to negotiate
41 which exchanges would be provided as information to the county. The other issues
42 were things dealing with reports and records; and what we decided on item 9.3, which is
43 in the franchise packet -- the major packet in front of you -- was that rather than try to
44 find compromise language between the two that we would go with the original language



November 28, 2006

1 in the franchise that deals with how we deal with the confidentiality of company records
2 -- which means that we will be treating the Comcast and Verizon records in a similar
3 fashion. The other issue was one of copies of regulatory filings pertaining to the county,
4 and we had an opportunity to have a little exchange back and forth about my
5 experience with the FCC; Mr. Raposa's concern about other states where he has more
6 information than I do about the way the law is different; and, obviously, we do not want
7 to be inundated with piles of materials from other states where the regulatory process is
8 different. On the other hand, Montgomery County's name has been mentioned at the
9 FCC without our knowing about it; and although Verizon may have a slew of attorneys
10 to be able to go through, everything filed at the FCC local governments do not. Despite
11 the skills of our county attorney and our outside counsel, it's a monumental task. So this
12 relates to making sure that we get the appropriate information when there are filings that
13 either refer to us or relate to us from that perspective. That's what's in the packet of the
14 addendum. What I'd like to do now is see if Mr. Pasternak or representatives from
15 Verizon or Sonya or anyone from the county government has anything they'd like to say
16 before I turn to councilmembers for questions or comments.

17
18 Jerry Pasternak,

19 I would just like to commend the MFP Committee, and Ms. Praisner in particular, their
20 effort in taking the franchise agreement we sent over and getting the additional benefits
21 for consumers; and I'd like to thank Verizon for their flexibility. I think what you have
22 before you is a very good agreement. I think it benefits the county. It benefits the
23 residents. Hopefully, it will be good for Verizon; and hopefully, it will bring on an era of
24 competition that we have not yet seen. Thank you.

25
26 Council President Leventhal,

27 Sonya, did you have comments you wanted to make?

28
29 (No verbal response.)

30
31 Council President Leventhal,

32 Okay.

33
34 Councilmember Praisner,

35 President Leventhal, someone from Verizon.

36
37 John Raposa,

38 President Leventhal, I also expressed yesterday and would like to express before the
39 full Council –

40
41 Council President Leventhal,

42 You may have already done this, but please identify yourself for the recording system.

43
44 John Raposa,



November 28, 2006

1 John Raposa of Verizon. President Leventhal, I identified -- said yesterday before the
2 MFP Committee, and I'd like to say before the full Council, express our gratitude to the
3 MFP Committee, Sonya, and Mrs. Praisner, for the very hard work and long hours they
4 have put in to bring this matter to your attention today.

5
6 Council President Leventhal,
7 Good. Thank you, Mr. Raposa. We have comments from the Mr. Andrews, followed by
8 Mr. Silverman.

9
10 Councilmember Andrews,
11 Thank you, Mr. President. Well, this agreement represents a milestone in the history of
12 cable competition in this county; and it's the primary lever that the county has to improve
13 customer service and provide or enable competition to take place in this county. And so
14 it is a substantial milestone. It is a significant franchise, and I want to commend
15 Chairwoman Marilyn Praisner for her outstanding work in this field for so many years,
16 and her guidance in helping the committee craft a franchise working with the parties
17 involved to all work very diligently for an agreement that, I think, is very much in the
18 public interest. I think all of us, and I certainly would like to see cable competition
19 tomorrow -- cable choice for every constituent. I understand that that will not be the
20 case; but I am pleased that the franchise agreement was improved in terms of the
21 rollout so that there will be guarantees as to when substantial numbers of our
22 constituents will have this choice. And I know that Verizon does have an interest in
23 moving this as fast as they are able to in order to have a successful franchise here in
24 the county. So I think the stars are aligned there -- that we will see a fast rollout, and
25 that's, I think, in everybody's interest. So thank you to all involved in helping to put this
26 together. I want to especially note the hard work of Sonya Healy who worked many long
27 hours on this and late last night, as Marilyn Praisner indicated, to get this ready. And the
28 big winners today will be our constituents who will finally have a choice throughout
29 almost all of the county, within a few years, of a cable provider.

30
31 Council President Leventhal,
32 Mr. Silverman.

33
34 Councilmember Silverman,
35 Thank you, Mr. President. I appreciate the hard work of everybody in putting together
36 what looks like a great agreement that'll provide true competition in the county; and I
37 think we all look forward to that. It's easy in looking at a 56-page agreement or so to
38 cherry pick out one or two issues -- which would be unfair because you have to look at
39 the totality of the agreement; however, I'm going to do that anyway. It's that legal
40 background.

41
42 (Laughter)

43
44 Councilmember Silverman,



November 28, 2006

1 I have one -- I have a couple of questions that I wanted to at least raise. This is really to
2 the executive branch. There's a -- what I would call a pretty significant disparity in terms
3 of the requirement for providing free service to community facilities, and it's not just, as I
4 understand the Comcast agreement—it's not just public facilities. It's nonprofit
5 healthcare institutions and other types of institutions that are, as I understand it under
6 the agreement, completely open-ended. No matter how many requests are made,
7 they're required to fulfill them. So I'm trying to understand how it is that the executive
8 reached an agreement with Verizon to allow them to, in effect, buy out of a similar
9 obligation or at least an equal obligation for future drops; because the cost is an open-
10 ended cost for Comcast, and the cost is basically a million dollars for Verizon.

11
12 Jerry Pasternak,

13 I'll respond to that, Mr. Silverman. And I will note that during the course of the MFP
14 review of the franchise agreement, Comcast did raise these issues with -- I'm sure with
15 some of you as well as with me, and I've had several meetings with Comcast to explain
16 this to them as well. These agreements were negotiated -- the Comcast agreement, the
17 Verizon agreement -- were negotiated at different points in time, under different
18 circumstances -- under very markedly different circumstances. We feel that if you step
19 back and look at the agreements on a whole big picture, that they are comparable. As
20 Mrs. Praisner said, they do not need to be identical. There will be provisions in one
21 agreement that will be more beneficial to one company over another. That's just the
22 nature of these negotiations. Specifically on that point, Comcast did ask for some relief
23 from its obligations; and my response to them was, at some point in time it may be
24 appropriate to consider granting some relief of that obligation. This is not the time. We
25 feel that the agreements on that point are relative -- on a bigger picture rather, are
26 relatively comparable. They're fair. And we can't go through the cherry picking and try to
27 make these deal points identical. We're all very excited today. We're all very hopeful
28 today that with the approval of the Verizon franchise, our residents will be offered the
29 benefits of competition. Let me just remind folks that we've been here before. We've
30 had other franchisees come in with a franchise agreement to provide cable service to
31 the residents of this county, and it has not turned out the way anybody hoped or
32 envisioned. And so, while we're on the verge of competition, we don't have it yet. And
33 despite Verizon's ambitious plans to offer service to substantial numbers of residents in
34 a very short period of time, we don't have that yet. When we get to that point, when we
35 see competition, when we see that we have -- perhaps inadvertently -- created an unfair
36 or an unlevel playing field, at that point maybe we could come back and take a look at
37 whether it's appropriate to modify some of Comcast's obligations or RCN's obligations.

38
39 Councilmember Silverman,

40 While I appreciate what you're saying, I have a hard time believing Verizon's going to
41 walk away from a multi, multi, multi million dollar investment they've already made in
42 this county over the question of how many -- how much free service they're going to
43 provide in the next community center. So where did the million dollars come from? Why
44 isn't it two million dollars? And do you have a cost of what these drops are --



November 28, 2006

1
2 Jerry Pasternak

3 We can –

4
5 Councilmember Silverman,
6 -- on a per building basis?

7
8 Jerry Pasternak,
9 Well, that will depend on where that building is situated compared to the right of way.

10
11 Councilmember Silverman,
12 Is that an average?

13
14 Jerry Pasternak,
15 These are buildings that haven't been designed, planned, constructed –

16
17 Councilmember Silverman,
18 No, but Comcast has already been – been providing service to public buildings --

19
20 Jerry Pasternak,
21 As –

22
23 Councilmember Silverman,
24 -- already. So I --

25
26 Jerry Pasternak,
27 As they've been required to –

28
29 Councilmember Silverman,
30 Right. As they're required to do, which – I mean you're referencing the idea that perhaps
31 some day in the future the next county executive and council will revisit the Comcast
32 agreement which I have a side bet on that one, as to whether that's going to happen or
33 not. My question is why – is how you arrived at the million dollars. Was that – I mean,
34 I'm not suggesting there was a big dart board, but –

35
36 Jerry Pasternak,
37 It wasn't that big.

38
39 Councilmember Silverman,
40 It's a nice round figure, and I'm just trying to understand whether it was based on the
41 idea that each drop cost X number of dollars; and, you know, we want to put a cap on
42 this. Why – in other words, why didn't you put a cap – you've got a maximum of a
43 hundred buildings. My understanding is the million dollars is supposed to be used for --
44 is supposed to be set aside in a – in the cable fund for drops?



November 28, 2006

1
2 Jerry Pasternak,
3 Correct.

4
5 Councilmember Silverman,
6 So why didn't you just negotiate that they had to do 300 buildings?

7
8 Jerry Pasternak,
9 Well, let me first point out that the number is actually 127 buildings because Verizon will
10 be doing 27 municipal buildings as well for the participating municipalities. So it's 127
11 buildings. Let me also just remind folks that these negotiations were conducted under a
12 very short time frame under the watchful eye of a federal judge. In an effort to resolve all
13 these issues, we sat in a room up in Baltimore and – Mr. Raposa and I sat in a room
14 and listed the business issues and the deal points that needed to get resolved in order
15 to move this deal forward. There was give and take on all of these issues, on a variety
16 of issues. On this particular issue, we pushed as hard as we could for as many buildings
17 as we could and as many dollars as we could; and I think at the end of the day, we were
18 satisfied that we got a good deal. We were also comforted with the knowledge that we
19 do have another provider that will be wiring some of our buildings. We don't need
20 duplicates; and so we were able to–

21
22 Councilmember Silverman,
23 Okay.

24
25 Jerry Pasternak,
26 -- pick a number and move on.

27
28 Councilmember Silverman,
29 I guess my final question on this point, I guess, is so who's going to make the decision,
30 and how's that decision going to get made about who gets wired, so to speak?
31 Because –

32
33 Jerry Pasternak,
34 That –

35
36 Councilmember Silverman,
37 I presume you're not going to have – you're not going to have both Comcast and
38 Verizon wiring –

39
40 Jerry Pasternak,
41 That's correct.

42
43 Councilmember Silverman,
44 -- the same building?



November 28, 2006

1
2 Jerry Pasternak,

3 That's correct. We do not yet have in place a process for determining which provider will
4 provide to which building. We don't know that yet. We first need to get a franchise
5 agreement approved; then we can go back. And again, these are buildings that are not
6 yet planned to be wired.

7
8 Councilmember Praisner,

9 Let me just comment, Steve, that we had some conversation about this issue too.
10 Remember that we have gone through this discussion in the MFP Committee of -- and
11 with cable fund of looking at what buildings will be wired and where the requests are. At
12 this point in the county, I think we're basically talking prospectively about future
13 buildings, some of which we don't know when they will come online or if they will come
14 online; and the decision about which individual should deploy to that building would be
15 made on a case-by-case basis depending upon the proximity, the system, the location,
16 the service needs. In addition, I might add that right now we're looking at -- as we review
17 the existing franchise, we're looking at a list of buildings for which service requirements
18 have not yet been met by Comcast. So there are a variety of issues associated with
19 this. Future requirements, based on whatever building may be needed, would be done
20 through the discussion process, I assume -- an analysis from a technology basis, using
21 Andrew and others, to make a determination about what's -- which is the best provider
22 to choose and what is the building and what is the building's needs. And secondly, we
23 already have issues associated with deployment now.

24
25
26
27 Councilmember Silverman,

28 Well, I guess what I'm trying -- I'm -- you know, you're a lame duck executive, Jeri, so
29 (laughter) --

30
31 Councilmember Praisner,

32 But the Council's not lame duck.

33
34 Councilmember Silverman,

35 No, but the Council is not going to make the decisions about how this actually gets
36 implemented; so I guess I'm asking for --

37
38 Councilmember Praisner,

39 Well, actually I

40
41 Councilmember Silverman,

42 If I can just --

43
44 Councilmember Praisner,



November 28, 2006

1 Yeah, but I disagree, Steve, because--

2
3 Councilmember Silverman,
4 Here's --

5
6 Council President Leventhal,
7 Mr. Silverman has the floor.

8
9 Councilmember Praisner,
10 Okay.

11
12 Councilmember Silverman,
13 That's okay, Marilyn. Here's my question. I guess what I'm looking for is fairness, is that
14 -- you know, you have an obligation, or you've laid out an obligation that Verizon has to
15 -- has to meet up to 127 buildings -- and oh, by the way, they're ponying up a million
16 dollars which will buy X number of additional buildings, you know, based on whatever
17 the costs are. The -- what I guess what I'm looking for is -- since I don't believe that
18 there'll be a revision of the Comcast agreement -- I mean there'd have to be a pretty
19 compelling case, I think, to be made and probably not on one or two minor issues like
20 this -- I'm just looking for some understanding or commitment on the part of this
21 executive, recognizing the next one may have a different view, about the fairness issue
22 to ensure that you don't have a situation where, in effect, Verizon may have an
23 obligation to do a hundred buildings, but there's no requirement that they do that except
24 at the direction of the county government. And you could easily turn around and tell
25 Comcast, Go ahead and continue your open-ended agreement to wire every building,
26 you know, in the county that we want you to wire, which I don't think is a fair agreement.

27
28
29 Jerry Pasternak,
30 Well, recognizing my inability to bind anybody beyond next Monday, I think it's fair to
31 say the county executive will fully utilize the one hundred drops that he's entitled to --
32 that the county's entitled to under the agreement.

33
34 Councilmember Praisner,
35 In addition, if I might add, the management of Fiscal Policy Committee asked
36 specifically about the million dollars, that it would be protected and available for this
37 option; and since the committee, through its quarterly reviews of the cable franchises
38 and the status of not just customer service but other issues, and our discussions
39 through FiberNet and other deployment, and the question about technology capacity for
40 whatever buildings, and the fact that we're monitoring now Comcast requirements to
41 wire certain school buildings which have not yet been completed, I expect that the
42 Management and Fiscal Policy Committee, through its cable review oversight, will also
43 be monitoring and tracking how are you making those decisions and how is it being



November 28, 2006

1 done fairly and what's the status of response time, which is as important as the
2 identification of the building.

3
4 Councilmember Silverman,

5 Okay. Thanks. I had one other issue I wanted to raise. I've never quite understood the
6 legal significance of side letters. So in connection with the call center compliance
7 numbers, which I understand are not desegregatable at this point, and there's an
8 attempt -- or at least in the language that's on page 2 of the addendum, it talks about
9 there being a side letter agreement; and the language talks about an anticipated date
10 for providing that information of January 1, 2008. What's the legal significance of the --
11 I'm not sure who I'm directing this to -- there are enough lawyers in the room --

12
13 (Laughter)

14
15 Councilmember Silverman,

16 What's the legal significance of the side letter; and more importantly, since I know the
17 franchise agreement has penalties, what is the penalty, if any, for violation of a side
18 letter agreement?

19
20 Nick Miller,

21 Mr. Silverman, Nick Miller from Miller and [INAUDIBLE]. Fundamentally, the side letter
22 is part of the consideration that the county is receiving several in return for giving the
23 franchise. So it -- my view is, it is an enforceable commitment. Now, it's not part of the
24 franchise; and so it would stand -- you would have to look for normal contractual
25 remedies if there was a violation of it. That would be my view of it. Verizon may have a
26 different view, and I suggest you ask them that same question.

27
28 Councilmember Silverman,

29 Well, they're here; so I certainly would want to ask them.

30
31
32 Bill Roberts, Verizon,

33 We have no disagreement with that characterization by Mr. Miller.

34
35 Councilmember Silverman,

36 Okay. So basically there's no express penalty like there is for violation of other terms of
37 the agreement, but you would essentially have to go to court to get this contract, in
38 effect, enforced.

39
40 Nick Miller,

41 That's the most straightforward way of thinking about it. I think there are arguments to
42 be made that it -- because it is consideration for the franchise --

43
44 Councilmember Silverman,



November 28, 2006

1 I understand. That's -- that's the remedy.

2
3 Nick Miller,

4 Yes. But it's not -- it's not a meaningless exercise is my point.

5
6 Councilmember Silverman,

7 No, I understand. That's what I wanted to find out. Okay. Thanks very much.

8
9 Council President Leventhal,

10 Mr. Knapp.

11
12 Councilmember Knapp,

13 Thank you, Mr. President. I just had a couple of questions -- nuts and bolts -- and then
14 just to extend some appreciation to everyone. I kind of wanted to build on just one of the
15 questions that Mr. Silverman just asked; and really, since a number of new buildings are
16 coming online in the district I represent, I just wanted to get a sense of, How do we do
17 that? Because we actually do have some buildings that are coming online kind of as we
18 speak and some that are libraries that are happening right now or that will be happening
19 -- and just to get a sense of how do we make sure that buildings are wired, either
20 through Comcast or Verizon in the first place.

21
22 Jane Lawton,

23 Or RCN.

24
25 Councilmember Knapp,

26 Or RCN.

27
28 Jane Lawton,

29 We have all three.

30
31 Councilmember Knapp,

32 Well, we don't have any [INAUDIBLE]

33
34 Jane Lawton,

35 Right now the process is that if you want -- if you are interested in a free drop, then you
36 have to provide us a letter which we share with the county executive's office. But the --
37 you have to have a letter from your department head. So it has to be not just your
38 division needing it, but it has to be a part of the overall department's need. And so the
39 department head sends a letter, says what it's for and everything, and then we send it to
40 Comcast and make the request or to RCN to make the request.

41
42 Councilmember Knapp,

43 What if we have a building that doesn't necessarily fall into the structure of a
44 department?



November 28, 2006

Jane Lawton,
Of the what now?

Councilmember Knapp,
We have a building that doesn't necessarily fit within the structure of a department, but is a county building?

Jane Lawton,
Well, then you can still make that request, and it would be something that either the CAO or the county executive's office would -- .

Councilmember Knapp,
Either through department or through the CAO --

Jane Lawton,
Right. Sure.

Councilmember Knapp,
-- effectively. Okay. And then just a nuts and bolts question because I continue to marvel after four years at this job at the number of phone calls we get as it relates to cable service. So once -- if and when we all raise our hands and approve this agreement, it will be reported tomorrow that Verizon is now operating in Montgomery County; and there'll be any number of clients -- any number of constituents out there who will assume that by Thursday or Friday, they should have service.

(Laughter)

Councilmember Knapp,
So the question I guess I have is, recognizing that I know Verizon wants to move quickly to -- to implement and hope to do some stuff by the end of the year or early next year, once a customer says, "Okay. I'm ready to do something," how long will it take roughly for Verizon to turn a customer on, from the time they initiate a phone call to you and all of the things have been approved?

Lori Edwards,
Once -- Once we have the service available, of course, a customer can call in. They can also go on the website and put in their phone number, and it will tell them if their -- if IS TV is available to them. So they can do that -- they can either then order the service over the website, or they can call in and order the service and then they will be scheduled for the next available date. Now, part of it's going to depend on whether they have an ONT -- an optical network termination device -- which is a device that Verizon puts on the side of the home when they do installations. If they're already a FiOS Internet customer, they may already have this -- or they will already have this device on



November 28, 2006

1 the side of the home; and then the commitment is that we will install within seven
2 business days. If they're not already a FiOS Internet customer, it may take an additional
3 seven days to place that ONT on the side of the house, and then an additional seven
4 days to install. So outside date is 14 business days to complete the installation once the
5 request is made.

6
7 Councilmember Knapp,

8 So just to get the nuts and bolts right , you've taken a lot of time over the last couple of
9 years and have laid a lot of fiber throughout communities in the county. That runs –
10 basically, it's frontage to homes.

11
12 Lori Edwards,

13 Yes. It runs to the right of way in front of the --

14
15 Councilmember Knapp,

16 So each home or each individual user that may want to subscribe then has to contact
17 you, and some line then – or fiber needs to be run from that right of way to the actual
18 physical residence if they're not already an Internet subscriber.

19
20 Lori Edwards,

21 Exactly. Exactly.

22
23 Councilmember Knapp,

24 Okay. So, I guess though, my next question is, Once you've pulled the starter's pistol,
25 presumably there will be a fair number of folks who'll be interested in your product, do
26 you kind of have the people lined up at the gate ready to go so that you can actually
27 meet this demand -- so as of January 2nd, if 35,000 people say, "Yeah. We're ready,"
28 and they meet all the criteria, that you can actually get that done in 14 days?

29
30 Lori Edwards,

31 Needless to say, Verizon has been anticipating this vote for some time; and so we
32 certainly have been gearing up and training technicians; and we have technicians
33 available to even loan from surrounding counties to bring over to Montgomery County to
34 handle the workload.

35
36 Councilmember Knapp,

37 So the answer is, "Yes."

38
39 Lori Edwards,

40 Yes.

41
42 Councilmember Knapp,

43 You're ready.



November 28, 2006

1 Lori Edwards,
2 Yes.

3
4 Councilmember Knapp,

5 Okay. Okay. I just -- no that's helpful -- I wanted to take a minute just to thank everybody
6 for this, for their efforts in this -- thank basically everybody at the table -- especially from
7 the county side -- for their efforts over the course of the past year to get this done. And
8 also thank the MFP Committee, and Mrs. Praisner particularly. We spoke regularly over
9 the course of the past three weeks. I had real concerns over the issue as relates --
10 related to Poolesville because you kind of had the whole rest of the county, and then
11 you had Poolesville that kind of dropped off into this abyss that might have happened
12 some day. And I think that what has been agreed upon is something that recognizes the
13 economic situation from a Verizon perspective, while at the same time provides fairness
14 and some measure of understanding on the part of Poolesville that they know that there
15 is a time frame. They are in a queue; and once we hit certain milestones, they will
16 actually be eligible to get service -- which I think is very important. To have just kind of
17 lopped off a portion of the county, I don't think was a great strategy. And so I appreciate
18 Mrs. Praisner's efforts and that of Verizon as well. One of the criteria I've had as we
19 looked at this whole process was, I'm a strong believer in competition in the
20 marketplace. And I want to make sure that the market competes customer to customer;
21 and I think that because of the nature of the technology and the way franchise
22 agreements are structured, that local government has a role to make sure that the
23 interests of the customers are served from a customer service perspective; that as
24 many similarities as can be made are; but at the end of the day, we want Verizon --
25 Comcast -- any other cable provider to go head-to-head on the basis of the products you
26 provide and the services that you provide. So that at the end of the day, that's what
27 wins. Because that, at the end of the day, I believe is what will provide better products
28 to our -- to our constituents, which is what we're paid to be concerned about. And so I
29 think where the committee has gotten to, through the efforts of both the executive
30 branch and the committee, provides a fairly flat field of play for everyone to go head-to-
31 head in a product environment; so that you're going to win or lose on the basis of how
32 well you provide your customer service, on the basis of how well you provide your
33 product, and on your prices. And I think that's the environment we need to be looking at,
34 and that's the environment that we as a Council need to continue to monitor. And so I
35 think we've laid that out there, but I'm mindful of Mr. Pasternak's point, which is we've
36 gotten to kind of this edge before; and we thought things were going to happen, and
37 they did or didn't. And so I know through Mrs. Praisner's interests, we will continue to
38 monitor how this rollout occurs. But I appreciate everyone's efforts -- the committee and
39 Mrs. Praisner, in particular -- to get us to this point. And so I look forward to moving
40 forward to making sure that our constituents and the customers -- the cable customers
41 in Montgomery County really have the choices that they want; and that we have the
42 type of competition that they expect and ultimately, I think, the products that they
43 expect. So thank you all very much.



November 28, 2006

1 Council President Leventhal,
2 Mr. Denis.

3
4 Councilmember Denis,
5 Thank you, Mr. President. I see people out there sporting buttons that say, "Yes." Does
6 that relate to this particular item? Okay. Well, I'll vote for it if someone gives me one of
7 those buttons.

8
9 (Laughter)

10
11 Councilmember Denis,
12 Is that fair?. Okay. It's all right. I'm assuming that this stands for "Yankee Entertainment
13 Sports."

14
15 (Laughter)

16
17 Councilmember Denis,
18 Am I correct about that? Because anyone –

19
20 Councilmember Praisner,
21 Three of us support that. Oh good, Howie. You got Mr. Raposa to smile too.

22
23 Councilmember Denis,
24 We have regulations for everything in this county; and we even have regulations for
25 buttons and signs at Council meetings, believe it or not; and I believe this is well within
26 the criteria, so you're not under arrest or anything, and thank you very much. But, no, I
27 just want to thank Jerry Pasternak and -- for all of his hard work and dedication and
28 friendship since before the time I was on this body; for his expertise; for his fairness; for
29 steering the county through this very difficult matter, in and out of court; and I think we
30 should all be grateful to him, and I know that we are. And through Jerry to his principal,
31 County Executive Duncan, whose leadership well-described today the legacy items
32 mentioned in the post editorial. And I think Jerry played a significant role in that, along
33 with others; and so I thank them both and also Jane Lawton. It's been a great pleasure
34 and an honor to work with Jane in a lot different capacities, especially including this one.
35 Our regulation in this area I believe is strong, and I believe it's fair; and for that reason,
36 it's given me a comfort level as a member of the committee and as a member of the
37 Council in handling a lot of the issues that come before us. So I think we're on the verge
38 of an historical agreement that will provide more competition. Competition is good. This
39 is a giant step forward for the county, and I thank all of those who have helped to make
40 it possible.

41
42 Council President Leventhal,
43 Well, thank you, Mr. Denis. And thank you to Mr. Pasternak and to Jane Lawton and our
44 own staff, Sonya Healy, and to the MFP Committee and to Verizon and to Comcast and



November 28, 2006

1 everyone else who's been involved in these negotiations. Do we have anything else
2 before us now, Chairwoman Praisner, before the vote?

3
4 Councilmember Praisner,
5 Nope.

6
7 Council President Leventhal
8 Okay. The vote is on.

9
10 Councilmember Praisner,
11 Sonya, I'm sorry.

12
13 Sonya Healy,
14 I just need to verify for the record that we're voting on the resolution that's contained in
15 the addendum and not in the main packet.

16
17 Councilmember Praisner,
18 Right.

19
20 Sonya Healy,
21 And so it's been revised.

22
23 Council President Leventhal,
24 Okay. Thank you for the clarification. The resolution approving the franchise agreement,
25 as approved by the MFP Committee, is now before the Council. Those in favor will
26 signify by raising their hands. It is unanimous. Thank you, all. Okay. I'm going to allow
27 about 30 seconds for the room to clear, and then we will take up our next item.

28
29 Councilmember Silverman,,
30 My items always clear the room. I don't know.

31
32 (Brief recess)

33
34 Council President Leventhal,
35 All right. Now before the County Council, if we could have order in the County Council
36 chamber, we have the resolution indicating the Council's intention regarding actions
37 necessary to implement amendments to the Collective Bargaining Agreement with
38 MCGEO, Local 1994. Mr. Dennis is our lead member for personnel, and he will present
39 the recommendation of the MFP Committee. Mr. Denis.

40
41 Councilmember Denis,
42 Thank you, Mr. President. This may be the last time that anyone addresses the Council
43 as lead member for personnel. So apparently I've done a very thorough job.



November 28, 2006

1 (Laughter)

2
3 Councilmember Denis,
4 And it's been an honor to be a lead member for personnel.

5
6 Council President Leventhal,
7 Just one moment, Mr. Denis. Please, if audience members could be courteous to the
8 Council, we do have other business before us -- if we could take conversations into the
9 hallway, please. We appreciate your courtesy in taking conversations into the hallway,
10 please. Mr. Denis.

11
12 Councilmember Denis,
13 Thank you. You're also welcome to stay and listen to this. It's a very important matter.
14 But before I get into this particular item, basically a reopener -- an amendment to an
15 existing collective bargaining agreement, I just want to say that I believe in collective
16 bargaining; and I think everyone would make that statement as a general statement. I
17 really believe it. I think the history of it indicates that it is one of the most ingenious
18 devices that the government in this country has ever come up with in resolving disputes
19 between labor and management, and particularly where public employees are
20 concerned -- public employees who do not have the right to strike and that do the work
21 of the county and who are entitled not only to be compensated, but who we need to
22 provide the high quality of life that we are all proud of. So that has been my approach as
23 lead member for personnel and all of the items that have come before us. I must say
24 that just looking back on it, the personnel regulations were very daunting. The first year
25 that I was lead member, and perhaps the most challenging, was deferred
26 compensation. I'm very, very proud of that and the resolution that we had, and all of the
27 compensation and benefit packages and agreements and appropriations that we've
28 made. I've been very proud to be the lead member for personnel. This particular item
29 before us is a reopener, meaning an amendment to an existing contract. The contract is
30 between Montgomery County government employees organizations and the county.
31 The contract runs from July 2004 through July 2007, so it basically has roughly six
32 months to go. This is in the nature of a pilot program. There is a history to it. It went
33 before the Labor Relations Administrator, and it's been a subject of negotiation for quite
34 some time. It basically provides for an ongoing salary review program. Perhaps the
35 most important element of it is that inequity, which is a general concept that could mean
36 different things to different people, is defined in the agreement that has been collectively
37 bargained between the county and the Union. And what is before the Council is a
38 necessary step for the Council basically to put its imprimatur on the agreement and to
39 indicate its intention regarding the appropriation of funds that may be necessary to
40 implement it. So that is what is before us. We have the parties of interest who may want
41 to elaborate, but that is -- it's a reopener, an amendment to an existing collective
42 bargaining agreement in the nature of a pilot program on salary reviews.



November 28, 2006

1
2 Council President Leventhal,
3 Okay. The reopener is now before the Council, although there is not a committee
4 recommendation in favor of the reopener. Mr. Denis, did you want to --
5
6 Councilmember Denis,
7 I thought that there was. I thought we voted on it unanimously yesterday.
8
9 Council President Leventhal,
10 Oh, I see. I'm sorry. My --
11
12 Michael Faden,
13 They did. We did not produce a packet.
14
15 Council President Leventhal,
16 There's an update from the memo in the packet.
17
18 Councilmember Praisner,
19 You were busy.
20
21 Councilmember Denis,
22 Well, I'm happy to --
23
24 Michael Faden,
25 There's no written update, Mr. Denis.
26
27 Council President Leventhal,
28 So the committee's recommendations is --
29
30 Councilmember Denis,
31 Unanimous.
32
33 Council President Leventhal,
34 -- in favor of the agreement?
35
36 Councilmember Denis,
37 Yes. There's a resolution in the packet. There's a resolution that that's what's before us,
38 is the resolution.
39
40 Council President Leventhal,
41 Okay. Excellent. Mr. Faden, did you have comments?
42
43 Michael Faden,
44 Nothing to add.



November 28, 2006

1 Council President Leventhal,

2 It's just the Council? Okay. Are there any other comments or questions on the MCGEO
3 reopener? If there are not, those in favor of the resolution as recommended by the
4 Management and Fiscal Policy Committee will signify by raising their hands. It is
5 unanimous among those present. Okay. Next to come before the Council is an item that
6 has been added to our agenda. It is Agenda Item 4.1 relating to future elementary
7 school sites in the Shady Grove Sector Plan Area. The resolution can be introduced
8 without objection. I believe Mr. Andrews wanted to discuss a potential motion to
9 suspend the rules and act on the resolution. Mr. Andrews

11 Councilmember Andrews,

12 Thank you, Mr. President. And my comments go to the issue of the suspension of the
13 rules, not to the introduction.

15 Council President Leventhal,

16 Mr. Andrews, I'm going to ask you to just hold for one moment. If I could ask the staff to
17 make sure that all council members have copies of Addendum Agenda Item 4.1. I'm not
18 certain that all councilmembers have copies, and we are going to be discussing it right
19 now. So could we just take a moment and ask staff to distribute additional copies to
20 councilmembers. I'm also distributing a letter from Planning Board Chairman Royce
21 Hanson. Okay. Copies are being distributed. Mr. Andrews, go ahead.

24 Councilmember Andrews,

25 Thank you, Mr. President. Well, the issue before us is -- was generated by a letter that
26 was sent to the Council last week by school board president Charles Hoggie asking for
27 the Council's guidance regarding what to do about the reservation of the potential
28 school site at Casey Mill in the Shady Grove Sector Plan. The reservation's set to expire
29 on December 23rd, and Mr. Hoggie asked for the guidance as to whether the Council
30 wanted the school system to make plans to purchase the site and, if so, indicated that a
31 special appropriation would be coming our way for that purpose. Without getting into the
32 merits of the issue at this point, my comments go to the issue of whether the Council
33 should suspend the rules and vote on this today. I strongly believe that the Council
34 should not. There has not been an opportunity for the public to comment on this
35 proposal by Mr. Hoggie that came in last week on this. We did receive just now a letter
36 from Royce Hanson, Chairman of the Planning Board, urging the Council not to adopt
37 this motion. And again, let me say, I am not arguing for or against the merits of this
38 motion at this point; but I do not think that we should suspend the rules and take action.
39 I don't believe it's necessary to do so for any legal reason; and while it's true it's this
40 council that adopted the Shady Grove Sector Plan, I don't think that this issue
41 before us is of such complexity that it would be difficult for the next council to make a
42 decision about it. And so I think we should not suspend the rules on this motion, and
43 give the community a chance to comment on Mr. Hoggie's letter, which was not sent to
44 the community -- which went to the school board and a copy of which went to



November 28, 2006

1 Mr. Hanson as well, who has now given us his view. So perhaps there would be no
2 objection to removing the suspension; if not, I will make the motion.

3
4 Council President Leventhal,
5 Mr. Andrews, let me -- you will make the motion? What will your motion be?

6
7 Councilmember Andrews,
8 My motion would be to not suspend the rules and to simply have introduction at this
9 point.

10
11 Council President Leventhal,
12 Okay. There's no motion required for that purpose. So a -- the measure -- the resolution
13 can be introduced without objection?

14
15 Councilmember Andrews,
16 Yes.

17
18 Council President Leventhal,
19 What would be required if we were to suspend the rules would be a motion to suspend
20 the rules. That motion hasn't been made yet.

21
22 Community service
23 Very well.

24
25 Council President Leventhal,
26 There's no need to offer a motion not to suspend the rules.

27
28 Councilmember Andrews,
29 Very well.

30
31 Council President Leventhal,
32 So I would urge --

33
34 Councilmember Perez
35 Do it any way. I second it.

36
37 Council President Leventhal,
38 I would urge the motion not be made to suspend the rules. All right. Let me say in
39 response to Mr. Andrew's -- and I appreciate the points that he makes -- this resolution
40 is being introduced at my request because the school system has indicated to the
41 County Council that it does not believe that an expenditure of \$10 million to purchase an
42 expensive parcel of land -- a \$10 million parcel of land is warranted. And so having
43 received that communication from the school system, it seemed prudent to me that a
44 resolution be introduced, making it clear that we are not purchasing this land because



November 28, 2006

1 the school system says we need not purchase it, and we're not in the business of simply
2 purchasing land that we don't need. As to the question of whether it should be acted on
3 today, I don't have a strong view on that matter. There had been conversations between
4 myself, the Council Vice President, Council staff suggesting that since the Shady Grove
5 master plan did indicate that this purchase should be made, that the same Council – as
6 you noted, Mr. Andrews -- that passed the Shady Grove Master Plan ought act on a
7 decision that is contrary to the intent of the Shady Grove Master Plan. Having said that,
8 I'm delighted this matter came up because I know that my colleagues, before they left –
9 our departing colleagues wanted to hear me give my speech one more time about the
10 Shady Grove Master Plan.

11
12 (Laughter)

13
14 Councilmember Silverman

15 ,

16 Speech.

17
18 Council President Leventhal,
19 And that's why I did not –

20
21 Councilmember Silverman,
22 That cleared the room.

23
24 Councilmember Andrews,
25 That's why I did not get into the merits of this issue.

26
27 Councilmember Silverman,,
28 A point of personal privilege since you brought up – since you brought it up – you
29 probably didn't know this, but Park and Planning sent out a press release saying that
30 the Shady Grove Sector Plan was named Maryland plan of the year.

31
32 Council President Leventhal,
33 It is the plan of the year.

34
35 Councilmember Silverman,,
36 It is the --19 meetings. They were worth it for that award.

37
38 Council President Leventhal,
39 It is the plan of the year, and my colleagues have heard me say before that I believe the
40 motto of the planning profession is: If the real world doesn't fit the model, too bad for
41 the real world. So there are --there are many items in the Shady Grove Master Plan that
42 the real world has proven somewhat different than indeed the planners planned -- and
43 the award-winning planners planned -- and this may indeed be one of them. I don't have
44 a strong view today as to whether we should waive the rules and act on this. It is in



November 28, 2006

1 order for anyone to make a motion to waive the rules. I will not make such a motion.
2 And I need to ask just a couple of questions -- legal questions, really. Number one, I
3 know I should know this, but it is the case that a Council resolution stays in effect even
4 though the Council that has introduced it has gone out of office, isn't that so? So the
5 resolution is still valid next week and the week after; and in the future, the resolution is
6 still pending --

7
8
9 Councilmember Andrews,
10 Right.

11
12 Council President Leventhal,
13 -- and it will be pending before the next County Council. So that's --

14
15 Councilmember Andrews,
16 Correct.

17
18 Council President Leventhal,
19 -- that's item one. Item two is, we have --

20
21 Councilmember Silverman,
22 We could talk about it again. We could come back.

23
24 (Laughter)

25
26 Council President Leventhal,
27 Well, I know you'll come back for that, Steve.

28
29 (Multiple speakers -- [INAUDIBLE])

30
31 Council President Leventhal,
32 We have a letter before us that I'm just now looking at for the first time from Chairman
33 Royce Hanson of the Planning Board; and his letter reads, in part: "The proposed
34 emergency resolution to allow the reservation to expire for the school site at Piedmont
35 Crossing should not be adopted; rather, the Planning Board should extend it for another
36 year." And then he cites reasons why. Does the Planning Board have the ability to
37 extend an agreement with a private land owner? Is that something that's within the
38 power of the Planning Board to do? My understanding was that someone -- I don't know
39 -- the Planning Board? -- the county? -- the school system? -- had reached -- had a
40 contract with a land owner to hold onto the land for a certain period of time, that that
41 contract expires on December 23rd. I'm not sure where Chairman Hanson's view that
42 the Planning Board can extend that reservation -- where does that come from?

43
44 John Carter,



November 28, 2006

1 The planning board cannot do that by itself.

2
3 Council President Leventhal,
4 Please introduce yourself.

5
6 John Carter,
7 John Carter, Community-Based Planning, Park and Planning, for Royce Hanson. The
8 Planning Board can extend it, but the applicant has to agree to that. You have time
9 limits. Those time limits are up.

10
11 Council President Leventhal,
12 The applicant being the landowner.

13
14 John Carter,
15 The landowner, yes.

16
17 Council President Leventhal,
18 We'd have to renegotiate with the landowner.

19
20 John Carter,
21 That's right. That's right. Now, there is process yet to go through. They have to do their
22 site plan; and I'm not sure about this, but I think they have to amend their preliminary
23 plan to do this. So there is time there – an applicant would probably agree to that –

24
25 Council President Leventhal,
26 And would not the landowner have the right to renegotiate the cost of the land?

27
28 John Carter,
29 Sure. Yeah.

30
31 Council President Leventhal,
32 Mr. Hawes, did you want to comment on that?

33
34 Richard Hawes,
35 I think it's pretty simple as far as we're concerned. We feel that the Shady Grove Sector
36 Plan is going to generate enough student yield to warrant a site dedication.

37
38 Council President Leventhal,
39 Is not going to?

40
41 Richard Hawes,
42 Is going to.

43
44 Council President Leventhal,



November 28, 2006

1 It is, okay.

2
3 Richard Hawes,

4 It is going to. And we just want an elementary school site within the Sector Plan, and we
5 don't think it's prudent to spend \$10 million for that elementary school site. So what we
6 have asked the Council to do is recognize the fact that it doesn't make sense to spend
7 \$10 million for an elementary school site, and basically let the reservation expire. Now,
8 you have to – you have to know that there was a request for a longer reservation as part
9 of the subdivision plan approval, but the owner would not agree to it. So what we're left
10 with is –

11
12
13 Council President Leventhal,

14 Well, it seems to me, the following. I'm going to go ahead and state a view on this. Well,
15 let me hold. I'll state a view later. Mrs. Praisner, did you want to comment?

16
17 Councilmember Praisner,

18 Well, yeah, I did because – actually the board of education, school system came to us
19 to tell us that they don't need this site unless the will Shady Grove Master Plan is
20 implemented, is my understanding. And they had a concern about the fact that whether
21 it is the current property owner whose reservation expires and with whom they've had
22 conversations – where there is very little, if any, likelihood of extension – and the fact
23 that this site would not be needed unless and until the Shady Grove Master Plan is
24 implemented. And the Shady Grove Master Plan includes language – it doesn't include
25 Blueberry Hill as a school site -- I'm concerned that Mr. Hanson's letter seems to
26 suggest significant controversy related to Blueberry Hill as if -- and I know there are
27 some community members who are concerned that all of a sudden this will mean the
28 resurrection of Blueberry Hill. The Master Plan is pretty clear about that; and the Master
29 Plan is also pretty clear about the fact that with and if there is redevelopment of the
30 service park, an additional site would be needed; and an elementary school site within
31 that service park area is a legitimate piece of that requirement. And there is a nexus
32 between development and that service park, and there is county-owned land in that
33 function. So to spend \$10 million or more to purchase a site that is not needed now,
34 where a reservation expires -- even though the RFP for the service park may not, the
35 service park is related to the future need for a school, not this site. I just think fiscal
36 responsibility would respond in the way that they want; but I am happy to wait an
37 additional week. I don't see that it changes the dynamics, though; and I'm troubled by
38 Mr. Hanson's letter, which is not accurate.

39
40 Council President Leventhal,

41 Okay. Well, let me do this. First of all, I'm going to ask if there is any councilmember
42 who proposes now to waive the rules and act on this resolution this morning. Is any
43 councilmember planning to make such a motion? If not, the resolution is introduced
44 without objection; and I guess I'll just go ahead and – well, no. We'll have a discussion



November 28, 2006

1 about whether -- what the future step will be. Will it be referred to committee? Will it just
2 come before the Council? That'll be a decision I guess for --

3
4 Councilmember Silverman,,
5 Whoever's left.

6
7 Council President Leventhal,
8 Yeah. Whoever's left standing.

9
10 Councilmember Praisner,
11 The leftovers. We'll reserve front row seats.

12
13 Council President Leventhal,
14 So since clearly -

15
16 Councilmember Silverman,
17 Hold a public hearing so those of us who worked on the plan can come back and testify.

18
19 Council President Leventhal,
20 Since clearly future action on this matter will come before the next Council, I will leave
21 the matter of scheduling action on this resolution to my successor as Council President.
22 Okay? So that disposes of that agenda item. And we now have before us Agenda Item
23 5 which is action -- something -- this'll be something light and non-controversial -- action
24 on the Fire Safety Code Regulations.

25
26 Councilmember Praisner,
27 Can I make a --

28
29 Council President Leventhal,
30 The Vice President has a point of personal privilege.

31
32 Councilmember Praisner,
33 Yes. I just want to make sure the clerk records me as supportive of the Collective
34 Bargaining Agreement reopener. I was out of the room discussing the franchise at the
35 time. Thank you.

36
37 Council President Leventhal,
38 Okay. Our lead member for Fire and Rescue is Mr. Knapp.

39
40 Councilmember Knapp,
41 Thank you, Mr. President. This came up, I believe, two weeks -- or just prior to the
42 Council going into recess for November; and we had just received a lengthy
43 presentation by the fire chief, Assistant Chief Donohue, as it relates to a fire safety code
44 regulations and an associated supplemental appropriation; and there were a series of



November 28, 2006

1 questions that Mrs. Praisner had asked as related to interaction that Fire and Rescue
2 Service had had with different communities – particularly the childcare community – that
3 had raised some concerns as it related to the potential costs of these new regulations
4 and the impact of that on the longer-term viability of some elements within that industry.
5 And I know that the chief had provided additional responses to Mrs. Praisner and to the
6 full Council as it related to that exchange, and that was the biggest set of questions to
7 be resolved. And so I just wanted to, I guess, touch base with Mrs. Praisner and any
8 other councilmembers to see if that – if those responses were sufficient, and if -- and
9 then move on to the actual actions on the regulations themselves.

10
11 Council President Leventhal,
12 Mrs. Praisner.

13
14 Councilmember Praisner,
15 I've been party to back and forth of the communiqué and outreach; and I think that
16 Debbie Shepherd is here as well from the county, and she has most of the interaction
17 with the childcare providers. I think the waiver process that has been put in place will
18 respond to some of the concerns that I have. It does highlight for me, though, the point
19 that I would like to make is that no one had any knowledge, or very little knowledge, of
20 the impact of these regulations that we were going to vote on a few weeks ago. At the
21 time, I picked the childcare community because it's one that I'm familiar with -- deals on
22 a very slim financial margin, and therefore the change in dynamics of fees, which is the
23 way we're going to fund all of this inspection process, is a major problem for them. And
24 I'm pleased with the work and the outreach that took place. I just would wish in the
25 future that all of that could have taken place without my having to raise a concern, and
26 so I would suggest that prior to introduction of proposals in the future that we would
27 have – or with any of that that we'd have a report on the extent of the outreach that took
28 place. The second point that I would make is the other issue that I raised – and I don't
29 see it here, I think we'll see it more from a budgetary perspective as we start to look
30 through this issue, and that is, I would like a report on the extent of the use of our
31 volunteer fire rescue officials in this function. Many of them have performed that in the
32 past. They have the network and relationship within their service areas, and I think they
33 are ideal individuals to be used to provide some of this function. So I would like that as
34 part of the report. Thank you.

35
36 Councilmember Knapp,
37 Thank you, Mrs. Praisner, and I will return to the chief for just a comment real quickly;
38 but I wanted to just respond to the first part. The committee had three or four different
39 meetings – I think it was four different meetings with the Fire and Rescue Service – and
40 one of the things that became very apparent very quickly in the course of discussion is
41 that the breadth of what Fire and Rescue Service was trying to do to try and relate to
42 these regulations. There was no single place within the county to go to to identify all of
43 the various industry sectors and all of the various businesses themselves. And so the
44 committee had a fair number of discussions about how that outreach would occur, and



November 28, 2006

1 agree with Mrs. Praisner's point that a lot of early-on outreach is a lot better than doing
2 it too late in the process. And one of the ways that these regulations had been
3 structured was in the first couple years to be doing a lot of that education outreach that I
4 think all of us would like to see done on the front end; but until the regulations could
5 actually be put in place, there wasn't a way to put the mechanism in there to do that
6 level of outreach because there was no way to capture that information. And so I think
7 that the concern that has been raised is one that the committee had as well, and I think
8 that Fire and Rescue Service had a process in place to try and do a lot of that outreach
9 along the way, and that if there is a situation that could be found with the childcare
10 community, that if that arises with another community, that the potential of a waiver
11 process or some other mechanism will be put in place, that we can address that. The
12 other thing that the committee had looked at was – and one of the things, I think we
13 found this attractive – is the current fee process is really kind of a one-size-fits-all kind of
14 try-to-make-this-work, and people end up paying potentially a lot more than they need to
15 given the services being provided relative to other businesses. And I think that what has
16 – what we liked about what is being proposed is it defines the cost to – down now to
17 quarterly hour increments; and so ideally, if it is really just a check up of a system or
18 using a very little amount of time for an inspector, that it actually will be least costly for
19 many of the businesses and many of the industries. And so I think that's important to
20 note as well; and so I just wanted to respond to that, because I think Mrs. Praisner
21 raised a good point in something that the committee had taken some time to address.
22 And so, with that, I will turn it over to Chief Carr and see if you have any additional
23 comments.

24
25 Chief Carr,

26 Just very briefly, the volunteer piece. I think that the Mobile Volunteer Corps provides
27 opportunity to do that. Also, most importantly, this in no way changes anything the
28 volunteers are already doing; and I would look to the Mobile Volunteer Corps to allow us
29 to use this to strengthen that opportunity for folks to volunteer who are not operational
30 firefighters. And I think it works. And we've talked about it; and as we've pulled the
31 Mobile Volunteer Corps together as specified in Chapter 21, that's one of the things
32 that's high on the list already. So no impact on existing volunteers, and opportunities for
33 volunteers in the future.

34
35 Councilmember Knapp,

36 I can't see if there are any other questions, but –

37
38 Council President Leventhal,

39 There are no other questions from other councilmembers? Okay. Then we have before
40 us -- we have before us Fire Safety Code Regulations: Executive Regulation 5-06AM
41 etc, etc. Those in favor of its adoption, as recommended by the Public Safety
42 Committee, will signify by raising their hands. It is unanimous. Next is a special
43 appropriation to the County Government's FY07 Operating Budget for the Fire and
44 Rescue Service - 2.582 and -- \$2,582,630, yeah, for Fire Code Enforcement and Fire



November 28, 2006

1 Safety Code for Inspections, Permits, Licenses, Certificates and Exceptions. Our lead
2 member for Fire and Rescue is Mr. Knapp.

3
4 Councilmember Knapp,

5 Thank you, Mr. – Thank you, Mr. President. There was a topic of discussion in there
6 that Mrs. Praisner had raised as it related to the consolidated fire tax district and how --
7 what we identify as the source of revenue or expenditures; and we'd had a joint MFP
8 and Public Safety Committee meeting to address this issue because there is a great
9 lack of clarity. There was a time when the consolidated fire tax district meant one thing,
10 and now it means something very different. And it was – it's very unclear that actually
11 many of the resources being used are actually coming from the general fund, and we
12 all, I think, agreed that we want to clarify what the Consolidated Fire Tax District really
13 is, when those funds are specifically being used, or to clarify even on our property tax
14 bill that those are just one set of allocation of property taxes. And that as it relates to this
15 specific item, there was an attempt that was made to clarify that, really, the
16 Consolidated Fire Tax District is kind of the holding place or the repository for those
17 fees that are being collected, and is not necessarily the source, per se, but that the fees
18 are the source. And so I think that has been clarified within the actual legislation. So I
19 think that works to at least clarify for this specific activity.

20
21 Council President Leventhal,
22 Mr. Knapp. Mr. Andrews.

23
24 Councilmember Andrews,

25 Thank you. I want to I want to thank my colleague for his good work in leading us
26 through this, and thank the leaders of our fire service for their initiative here. This is a
27 quantum leap forward in improving fire safety in Montgomery County. If fire safety codes
28 aren't followed, it doesn't make much difference if they're there. And what Fairfax found
29 out when they went out and investigated was that about 85 percent of the time, they
30 found significant violations of fire safety code before they started something similar to
31 what this program will provide. So this fee-based and very significant -- it's fee-based,
32 not tax-based -- program will significantly improve the safety of our residents and, I
33 believe, will be a model for the nation. And I think that the amount of thought that has
34 gone into this to try to anticipate all the potential issues is substantial, and I want to
35 commend Chief Donahue and Chief Carr for their outstanding leadership.

36
37 Councilmember Knapp,

38 Thank you, Mr. Andrews I would also like to just echo those sentiments. I appreciate the
39 concerns that Mrs. Praisner had raised; and, quite honestly, given the breath and scope
40 of what you've been working on – Fire and Rescue Service has been working on over
41 the last 24 months to put this in place -- I think that they are indicative of some other
42 pieces that can probably be further explored; but, quite honestly, the scope and breadth
43 of this is huge. And for that to be, really, the small set of issues that have been raised, I
44 think is a real testament to the commitment and the forethought that you've had to try



November 28, 2006

1 and pull all these pieces together. I'm sure that there will be some glitches along the
2 way, and we will have further conversations as to how to reconcile those; but, I think it is
3 – as Mr. Andrews has said -- a huge step forward, and very significant for the safety of
4 our residents. And we look forward to working with you to try and make sure that we
5 work through those glitches pretty seamlessly. But I think that at the end of the day, this
6 is going to be very, very beneficial for all the residents in our county; and I thank you for
7 your efforts. Mrs. Praisner.

8
9 Councilmember Praisner,

10 I agree very much that making sure that our residents are safe or the businesses are
11 safe, by having the kinds of inspections that you're talking about on a regular basis, are
12 obviously very important. And I think the fee structure is obviously an easier pill to
13 swallow, unless you're paying the fee; and the tracking that will need to take place is not
14 insignificant from a standpoint of use of waivers, actual revenue, amount of time, etc.,
15 because I suspect that once we get into the process, you'll find some of those glitches
16 appearing by virtue of the individual interaction on the fee and the inspection process. I
17 think it's very important, though, that we keep track of this program separately; and
18 that's why the fire district – fire tax district issue was one I raised. Because if it is a fee-
19 driven process, then the question of how the fees and waivers relate to the expenditures
20 is going to have to be very carefully monitored because folks are paying for that service,
21 and we can't generate more money. And if we generate fewer dollars, then we'll have to
22 review the fee schedule in order to make sure that relationship continues.

23
24 Council President Leventhal,

25 Okay, very good. The special appropriation is now before the Council. Those in favor
26 will signify by raising their hands. It is unanimous. The Council is now in – thank you,
27 Chief Carr. The Council is now in Legislative Session. Is there a legislative journal for
28 approval?

29
30 Council Clerk,

31 We have the Legislative Journal of October 24th for approval.

32
33 Council President Leventhal,

34 Is there a motion to approve the Legislative Journal of October 24th? Mr. Andrews has
35 moved and Mrs. Praisner has seconded the approval of the Legislative Journal for
36 October 24th. Those in favor will signify by raising their hands. It is unanimous. There
37 are no bills before us for introduction. We do have one bill before us for final reading. It
38 is Bill 17-06, Buildings - Energy Efficiency and Environmental Design; and it comes to
39 the Council with a favorable recommendation from the Transportation and Environment
40 Committee. Chairwoman Floreen.

41
42 Councilmember Praisner

43 Do we have copies of the packet from last night? That's the one you passed out earlier,
44 right? Okay.



November 28, 2006

1
2 Councilmember Floreen
3 From last night?

4
5 Councilmember Floreen,
6 Yeah. There we are. Okay.

7
8 Council President Leventhal,
9 The staff memo of this morning should incorporate what was before the T&E Committee
10 last night.

11
12 Councilmember Floreen,
13 Yes, it does. It's still warm from the presses.

14
15 Council President Leventhal,
16 Ms. Floreen.

17
18 Councilmember Floreen,
19 Thank you, Mr. President. I am going to turn this over to you in a minute to wax poetic
20 about our environmental initiatives; but I did -- before we got into this, I did want to make
21 a couple of general comments. For those of you on the outside worrying about what this
22 Council has done over the past four years to address development issues generally,
23 and to regulate what we see going up around us in some detail, I just want to review
24 some of the bidding. The Council has enacted workforce -- a workforce house housing
25 requirement for all new residential construction. We have increased permitting and
26 development fees at every conceivable level -- not to mention what we just did for fire
27 safety codes. We have imposed new drainage requirements and offered new
28 stormwater management solutions, pilot programs, and requirements. We've found new
29 ways to measure height in residential neighborhoods. We've advanced forest
30 conservation initiatives, created an advisory group focusing on champion trees, and
31 have created a whole raft of initiatives that we're going to be following up on. We have
32 limited development in the agricultural zones. We've extended site plan review in the
33 commercial zones. We've enacted a very stringent fire safety code and imposed a fire
34 sprinkler system requirement for new residential development. And at the same time,
35 we've worked hard to advocate for transportation funding to create the infrastructure to
36 support these communities. I think that reflects this Council's commitment to further
37 regulation of development to respect community needs, to respect the environment, to
38 advance affordable housing, and to provide the infrastructure necessary to support all
39 that. It hasn't been easy, and we've certainly created a lot of concerns as we've worked
40 through this; but the fact of the matter is, we have done landmark legislation in nearly
41 every category. And this is really, more or less, the crowning jewel to all that; and I -- my
42 hat is off to Council President Leventhal who has pushed this through. You'll note this --
43 you are at version 10 on a requirement to require all new construction, including county
44 buildings, to satisfy green building initiatives. And we have worked through many of the



November 28, 2006

1 details with tremendous support from our staff. We've worked through back surgery. We
2 have traded off our legislative work throughout the Council staff. We've had tremendous
3 support from the Department of Permitting Services people, and tremendous
4 engagement from the outside community. And while it hasn't been easy – and it has
5 been – we've worked on this at a pretty significant pace this fall. I'm very -- I think this
6 Council should feel very proud of itself and of Mr. Leventhal for the work that's gone into
7 this so far. This is going to create some additional costs for development. We shall see;
8 the jury's out as to what the real costs will be. But the fact of the matter is if you're going
9 to lead, you're going to have to take some risks and you're going to have to be clear
10 about your objectives; and that's where this legislation takes us. I'll go into the details
11 later, but I'll turn it over to the Council President first.

12
13 Council President Leventhal,

14 Well, thank you very much, Councilwoman Floreen. It really has been great working
15 with you on this legislation, and I share your view that we're -- I'm optimistic that we are
16 about to pass landmark legislation in the region and really in the nation. And your
17 support and your collegiality on this has been very much welcome; and you've made a
18 number of suggestions that have made the legislation better, and I'm very, very grateful
19 for your help. We had a couple of meetings of your committee during the month that we
20 were on recess; and I realize that was an inconvenience to you and to Mr. Perez, and
21 I'm grateful for it. I think the product is worthwhile. Buildings are the largest source of
22 both energy consumption and greenhouse gas emissions in America, as well as around
23 the world. According to the American Institute of Architects, buildings account for as
24 much as 48% of all greenhouse emissions and 68% of electricity consumption. It is not
25 news to anyone here in this room that within the next decade or so, the level of
26 greenhouse gas in earth's atmosphere may reach a critical turning point from which it is
27 possible that we will not come back in terms of the habitability of coastal states like
28 Maryland and, indeed, the entire planet. Our climate is changing. Our polar icecaps are
29 melting. Freak weather events -- hurricanes and others -- are increasing. Ski resorts are
30 relocating. We know that these things are occurring around the planet and in Maryland.
31 And we know that a coastal state like Maryland is at high risk of rising sea levels if
32 icecaps and icebergs continue to melt. We cannot avoid making tough choices about
33 energy consumption, building construction, and transportation. As a species, we must
34 change our behavior. We must change the way we do business. We must change the
35 way we construct buildings. We must change the way we move ourselves from place to
36 place. If we do not, the consequences will be severe for the world and for Maryland and
37 for Montgomery County. And in keeping with that, I'm proud to be part of a local
38 government that has made significant steps in this term of the County Council to change
39 the way we consume energy, to change our sources of energy, to change our
40 transportation and land use patterns, and today to require a change in the way we
41 construct buildings. And so this green buildings legislation, approved yesterday by the
42 Transportation and Environment Committee, will impose the highest standard on
43 ourselves, county government. It will require that county government buildings, 10,000
44 square feet gross floor area or greater, meet the LEED silver – at least the LEED silver



November 28, 2006

1 rating. And it will require that new private buildings constructed in the Montgomery
2 County that exceed 10,000 square feet gross floor area be at least LEED-certified.
3 We've been debating this for about a year; I convened a working group meeting -- a
4 number of the folks here from Park & Planning and Planning Services and Public Works
5 and Transportation and the Environment Protection and the school system and
6 Montgomery College participated in that working group that I assembled about a year
7 ago, and we've talked about how to achieve this change in building code standards for
8 environmentally-smart, high-performance construction. So I don't think that most people
9 here need a primer about what LEED - Leadership in Environmental And Energy Design
10 -- ratings are, what they mean, and how they are applied; and over time I've noticed that
11 my colleagues and I together have gotten a great deal more educated even as industry
12 and other local governments in the region have moved very dramatically in this
13 direction. As we act today on green buildings legislation, similar legislation is pending in
14 the District of Columbia; in Arlington County, Virginia -- they've been a real leader in the
15 region in working with the building industry to put green building measures in place. And
16 there was an excellent meeting of the Council of Governments on October -- excuse
17 me, on September 29th, at which hundreds of attendees, including myself and others
18 from the County Council and the executive branch, got even better educated about
19 really how easy and how smart it is to build buildings that generate long-term savings,
20 that provide a highly desirable and attractive working environment for employees that
21 use less water, that use recycled building materials, that have a lighter footprint. And so
22 the industry is moving in this direction. The building code very soon will likely mandate
23 the very things that we are requiring here in our own legislation. Other local
24 governments are moving in this direction. And I want to thank our local building industry
25 which has provided many constructive suggestions as to how and when to implement
26 this. I want to commend some leading edge companies; and I'm going to call out two by
27 name, the Tower Companies and JBG, who have expressed strong support for this
28 legislation and have been in communication with me and with other councilmembers as
29 the legislation moved forward. I want to thank the Maryland National Capital Building
30 Industry Association, which is represented here in the room, who provided a number of
31 very helpful and constructive suggestions -- many of which we adopted. I know that the
32 buildings that will be built in this county will be better and more livable and less wasteful
33 as a result of the legislation that the Council, I hope, will pass today. And I think -- and
34 I'm really excited about this legislation. And I know that my colleagues in DPS, in DEP,
35 in the school system, in DPWT, and Parks & Planning who are here -- the smiles on
36 their faces reflect the sense that I know that I have, that this is something really exciting
37 that we're going to be doing in Montgomery County. This is something we can feel really
38 good about in local government. And, again, I thank the Chair of the T&E Committee,
39 and I look forward to her discussion of the provisions adopted by the committee and
40 look forward, along with her, to answering any questions that my colleagues may have.

41 Councilmember Floreen,

42 Okay. Then we'll go through the bill. I wanted to say at the outset that first of all we do
43 have a Tax Credit Bill that is pending in committee; and based on some of our
44



November 28, 2006

1 conversations yesterday, I think we may be looking at some additional amendments to
2 that. There are a lot of sticks in this bill in terms of the obligation upon new
3 development; and the challenge for us will be to determine if we should add some
4 additional carrots, in terms of tax incentives and the like, to make this -- these pills a
5 little easier to swallow. That will remain for another day, though, and I regret a little bit
6 that we're not taking them up together; but the fact of the matter is, this is going to set
7 the standard for the county. Another general point I wanted to make that Council should
8 be aware of, there are some inherent conflicts between green building initiatives and
9 some of our park & planning requirements; some of our parking standards; possibly
10 some of the site plan issues out there. And that may -- will, no doubt, come back to us in
11 the next Council. What we have done is left a certain number of details here to
12 regulations. So the next council will have privilege next fall of working through the devil
13 of the details. So with that said, let me just -- I don't know if councilmembers want to go
14 through the language, per se. We have adjusted the language in the bills quite
15 significantly since they were first introduced. It started out focusing on a site plan and
16 preliminary plan matters. It ended up focusing on a building permit. That is the time
17 when these buildings will need to demonstrate that they satisfied LEED-certified
18 standards at the private sector level, and county buildings will need to show that they
19 satisfied LEED silver standards at the building permit level, and that we have adjusted
20 the timing for that to allow the world to deal with the details of the regulations. What we
21 propose in here is that the implementing regulations will come to us by July 15th -- that's
22 on circle 12 here -- and that this will affect new building permit applications that come in
23 within -- by one year after those regulations which are submitted take effect, but no later
24 than September 1, 2008. This is a little different from the earlier drafts; but based on the
25 concerns that we heard from the industry and the folks who need to design -- get going
26 on designing buildings at this point, we wanted to make sure that we had fairness and
27 notice built in; and we anticipate significant stakeholder involvement in the development
28 of those regulations. Basically, as Mr. Faden's and Kathleen's work reflects -- and I have
29 to say, they wrote this last night. We finished at 6:30 in committee, and so they deserve
30 tremendous credit for putting this back together again and getting it out to this Council
31 this morning. Basically, this will require any county-built or funded non-residential or
32 multifamily residential buildings to achieve a LEED silver rating, 33 to 38 points in the
33 LEED rating scale or its equivalent as defined by county regulations. And for those of
34 you who are interested in the details, I had staff attach to this the list of the LEED
35 standards -- to this packet -- so you can see the nature of the expectation of projects.
36 We are told that right now Montgomery County really does have pretty significant
37 environmental requirements in any event, and that a certain number of these points are
38 pretty much built into the application process within Montgomery County. But there will
39 be additional points that will need to be satisfied. We were -- learned a lot from the
40 District of Columbia in the working through this legislation because they were told -- they
41 told us of antitrust concerns associated with relying on simply one standard, which is the
42 LEED standard. We heard from various industry representatives, advocates for local
43 trees, advocates for different kinds of electric -- utility elements, their concern about
44 sticking to one LEED standard; and so that is why the legislation makes it clear that



November 28, 2006

1 equivalency to the LEED standards will be adopted and can be satisfied in achievement
2 of these regulatory objectives. And that's contained, as applicable, both to county and to
3 private sector development. The private, non-residential, multifamily residential
4 buildings are required to achieve a LEED-certified rating, which is 26 to 32 points or its
5 equivalent -- a lesser standard than the county standard -- the standard applicable to
6 county facilities -- nonetheless, significantly more than is currently required. We defined
7 -- went into some detail worrying about how you define a county building -- not so clear -
8 - and we defined it as something -- a building where the county has contributed 30 --
9 let's see where, 30% of its cost for a new building. We -- let's see -- we also authorize
10 DPS here in their regulatory development to adopt some standards for waivers where
11 there are significant problems advanced by a particular applicant; and we agree we
12 don't know what that would be. We do not doubt that there will be challenges in
13 implementing these regulations and in adherence to them, and that there's always a
14 unique circumstance that's going to require special attention. So we included that
15 expectation in the legislation. We also, though, have required that there be an annual
16 report to the Council of waiver situations that are adopted by DPS so that we can
17 understand what those implications are. And I have to say, I'm glad we have approved
18 the members of this DPS Advisory Committee; they are going to be mighty busy. We
19 also extended -- spent some considerable time looking at the language for what is an
20 "extensively-modified building" as will be subject to these regulations to make sure that
21 -- that, again, that this was fair. One of the concerns that drove the committee thinking
22 on this the subject was the Canada Dry building in Silver Spring where an existing
23 building has been gutted and reconstructed; and the hope is that -- and the requirement
24 will be that buildings of that nature -- buildings that go through significant renovation --
25 and, by that, structural renovation -- will be subject to these requirements. There are
26 further details as to supervision and verification of compliance here. I don't know if
27 you're going to want to go into that again. Some of the details here will need to be
28 spelled out in regulation. As George said, this is an evolving art. Jurisdictions across the
29 country have looked at LEED standards in a variety of different ways. I am not aware of
30 a situation where the obligation in multifamily construction is what we're proposing here.
31 Arlington, Virginia, has LEED requirements; however, they are associated with
32 additional density. There is a -- Virginia has a different system altogether for approving
33 development. So they're the ones that we do know have that requirement, but it's
34 balanced by a carrot. As I said earlier, we do not have -- we're not talking about
35 incentives here; we're simply talking about the requirements. We are told that the
36 District of Columbia's legislation does not apply to multifamily residential construction;
37 so that is one of the reasons, I think, why we wanted to make sure that this legislation
38 and the implementation -- that the obligation would kick in a year after the regulations
39 are adopted, so people would have a chance to work through the details. There are
40 significant details. The International Building Code is being rewritten, as we speak, to
41 address some of those details; and we expect that that, in and of itself, will impose
42 additional green building requirements generally that will be adopted in Montgomery
43 County. There are plenty of things to worry about in the future; but I think this sets a
44 clear standard and expectation for all new county construction. One of the things that



November 28, 2006

1 the Council needs to be aware of is that we should expect to see a number of
2 supplementals in the CIP context. The language here is designed to direct county
3 agencies to adhere to adhere to green building – the silver objective in all projects for
4 which design has not begun. And I think that the language here – where do we have
5 that, Mr. Faden?

6
7 Michael Faden,
8 I believe what you're looking for is on circle 12, lines 254 through 266.

9
10 Councilmember Floreen,
11 Yes. That's the language there that is intended to respect the needs of the college; of
12 the school system; and, frankly, of all governmental facilities. We want to hold the
13 county to a higher standard; but we want, again, to be fair in terms of the application of
14 these requirements across the board. We know that there are going to be
15 implementation challenges generally, and we expect that the regulations that the DPS
16 provides us with will offer further guidance on the details. This stuff is hard; there's no
17 question about it. And we are – we are venturing into a new environment; but, frankly,
18 the industry is ready. Certainly the supply -- supplying industry is ready. If you read your
19 New York Times – it was either today or yesterday – they have a piece in it about how a
20 new paint used outside -- in Rome -- captures smog. And I suspect that it's new
21 techniques like that across the world. There are ones that we will be using to make sure
22 that Montgomery County is a more environmentally-sensitive place and doing its part to
23 deal with our environmental challenges. So, anybody have any specific questions?

24
25 Council President Leventhal,
26 We have questions from the two cosponsors of the bill, Ms. Praisner and Mr. Silverman.

27
28 Councilmember Silverman,
29 What happened to our bill, George?

30
31 Council President Leventhal,
32 Mrs. Praisner – uh, Mr. Silverman wants to go first?

33
34 (Laughter)

35
36 Councilmember Praisner,
37 Arm wrestle. No, actually, my comments take two – are in two veins: one, the issue of
38 the Property Tax Credit was discussed within the packet. I had to step out, so I'm not
39 sure how much we talked about it; but it will need to be looked at. It's just the MFP
40 Committee had other issues it needed to deal with; but those issues need to be dealt
41 with. This is - as a sponsor of the bill, I obviously am committed to the issues that we're
42 talking about; but it's also a very complicated issue, as I think we found out -- my
43 tracking the committee and, certainly, the T&E Committee's work. We are leaving a lot
44 to regulation, which is probably wise. We are leaving a lot from a standpoint of deferring



November 28, 2006

1 the implementation schedule, which I think is also wise. I hope that in this time period
2 that we can also make sure that we examine what we have put in place, and continue to
3 learn and to receive input from the impacted community and the advocate community to
4 make sure that we're on the right track. I don't consider these issues cast in concrete,
5 personally, because as Nancy said, every day you find out something more about the --
6 what is -- what is being proposed or what is available or how one might calculate what
7 might be eligible for credit, etc., because we are either inventing new things or
8 examining how one can do things better. So I think this is the beginning of the beginning
9 for us in this issue. And we will learn from government buildings, as well as we will learn
10 from the private sector on this issue. I read the letters that came in from the advocates
11 of Do It Now; I read the letters from those who have some concerns. I think the
12 committee in their work tried very aggressively to respond to those concerns, and I'm
13 prepared to vote for the legislation today. I -- I want to echo my support for the staff and
14 for the T&E Committee -- all three members, especially the Chair -- for the work in
15 working through these issues. 6:30 last night is a record, I believe, for this Council; and
16 it was 9:00 last night, I think, when I was speaking to Mr. Faden who was still at the
17 office formatting the memo for today. So you beat Sonya, I think, as well. We ask a lot
18 of our staff; and this is another example of how they rise to the occasion through
19 physical adversity and through camaraderie of trying to work on very complicated
20 issues. So I anticipate we will have lots more to talk about on this issue in the future, but
21 I'm prepared to support the legislation today; and I congratulate the Council President
22 for taking the lead on this significant environmental initiative.

23
24 Council President Leventhal,
25 Thank you, Ms. Praisner. Mr. Silverman.

26
27 Councilmember Silverman,
28 Thank you, Mr. President. I too want to share Mrs. Praisner's comments. I appreciate
29 Mr. Leventhal's leadership on this issue; and I think it's a great step forward, and I'm
30 pleased to support the legislation. I did have a few questions because the legislative
31 history is all we have.

32
33 Councilmember Floreen,
34 No, we have this.

35
36 (Laughter)

37
38 Councilmember Silverman,
39 Yeah, that's what I mean. So I -- I did actually have a few questions, at least to just find
40 out if this is what is going to be left to regulations; and having gone through the Work
41 Force Housing, we certainly --

42
43 Councilmember Floreen,
44 Yeah, it's in that category.



November 28, 2006

Councilmember Silverman,

-- left a lot to the regulatory process. So I'm fine with that. The section that relates to the definition of "extensively modified" and talks about 50% of buildings' gross floor area -- there's a series of, I guess, exceptions to this. So it doesn't apply if you're modifying the mechanical, electrical, plumbing, heating, ventilation, and HVAC or fire protection systems. So, just hypothetically, if somebody comes into an existing apartment building and takes out -- redoes the floors, redoes the carpeting -- I know you must have dealt with this issue. That obviously could cover 50% of the floor area; is that an issue that would be?

Councilmember Floreen,

That, well -- Things like that, we actually spent some considerable time discussing that last night; and that's why we added the language "any structural modification which alters" as opposed to affects. We had the benefit of departmental staff at our session who advised us what their interpretation was likely to be; so we can anticipate the basic contours here in the legislation. But of course there are going to be details that we would expect the regulations to go into a little more concern about, keeping in mind that they speak in a totally different construction language --

Councilmember Silverman,
Right.

Councilmember Floreen,
-- then councilmembers; and you know you don't want us to --

Councilmember Silverman,
Sure.

Councilmember Floreen,
-- start messing with their language.

Councilmember Silverman,
Okay. Next --

Councilmember Floreen,
But -- and please jump in if I'm --

Councilmember Silverman,
No that's fine. I mean if that's --that's fine. . Also, did you take up what happens in terms of if you're putting in an additional 10,000 square feet -- which is, I guess, the threshold for modifications on commercial buildings -- do you then capture for green building standards the entire building, or are you just talking about -- is it just the modification that the standard applies to?



November 28, 2006

1
2 Councilmember Floreen,
3 I think – I think that you're looking at the language on circle 8?

4
5 Councilmember Silverman,
6 I was looking at –

7
8 Councilmember Floreen,
9 138?

10
11 Councilmember Silverman,
12 Well, I'm looking – hang on a second here. I think I'm in the definitions –

13
14 Councilmember Floreen,
15 We did change a lot of this –

16
17 Councilmember Silverman,
18 The definitions, which is on circle 4, lines 29 through 32, has a 10,000 square foot
19 threshold –

20
21 Councilmember Floreen,
22 Mm-hmm.

23
24 Councilmember Silverman,
25 -- for a modification of a commercial building. What I'm trying to understand is, if you've
26 got a building that's 50,000 square feet, and they decide they want to put an addition on
27 that's 20,000 square feet; does the standard – does the standard for green building
28 apply to the new 20,000, or does it capture the 20,000 plus the 50,000 that's already
29 existing where there's no modification?

30
31 Michael Faden,
32 Essentially the new 20,000.

33
34 Councilmember Silverman,
35 Okay. Fine. Like I said, I just wanted to get some clarification. I just would like to
36 understand, we had received correspondence last week from the Mid-Atlantic Regional
37 Council of Carpenters -- which is a part of the United Brotherhood of Carpenters – and
38 there was legislation that had been passed and sponsored by – and co-sponsored by a
39 whole bunch of senators – like Brian Frosh and Jennie Forehand and Rob Garagiola
40 and Paul Pinsky and others who are clearly environmental leaders in the legislature that
41 specified the alternative method beyond LEED.

42
43 Councilmember Floreen,
44 Right.



November 28, 2006

Councilmember Silverman,

And I understand the legislation, I guess, defers to a decision by DPS as to whether they're going to recognize something else. Could you talk for a minute about why you didn't adopt the similar language that the carpenters –

Council President Leventhal,

Sure. Let me –

Councilmember Silverman,

-- or that the state had adopted.

Council President Leventhal,

Yeah. Madame Chair, let me speak to that first. Number one, although the US General Services Administration and the building industry generally -- there is a broad consensus that the -- that the industry standard for green buildings is being promulgated by the U.S. Green Building Council -- which is a non-governmental agency which assembles the best thinking from architects and planners and builders around the country to develop the LEED rating. This legislation does not specifically mandate in the statute that the LEED ratings promulgated by the USGBC will be the standard adhered to by our department of permitting services. The reason it does not do so is because -- and this was what the Chair was alluding to earlier, that the District of Columbia primarily led us in this direction -- we do not want to run afoul of an antitrust concern by indicating in statute that a sole vendor is going to be the arbiter of our process. The USGBC is an outside entity. They provide services for a fee to certify their buildings and to give buildings that apply to them the rating. So the statute does not steer business to a single vendor. Having said that, it is my understanding from the meetings and reading that I've done on this issue, that the sense of the field is very much that the US Green Building Council is doing the best job of assembling and compiling the best thinking in the field of environmentally sustainable design, and that the Green Globe's proposal is primarily being promulgated by the timber industry -- which does not want to have to emphasize recycled building materials as much as it wants to cut down fresh trees which is its business. Clearly, the business of cutting down trees is not necessarily consistent with the business of preserving the environment and reducing carbon dioxide emission; however, the Green Globe's proposal has been offered by those in the timber industry who want to preserve the capacity to use new timber and still achieve an environmentally stable rating. The reason that the Maryland legislature and the pro-environmental legislators in the Maryland General Assembly allowed the Green Building's Task Force to evaluate Green Globes was very simply because the bill would not pass the Maryland General Assembly had that language not been included. In western Maryland, in particular, timber industry interests were such that legislators felt strongly that Maryland trees should be cut down and that Maryland timber should be provided in order to keep the Maryland timber industry strong. I have great respect for the timber industry; and,



November 28, 2006

1 obviously, there are – there is a role for wood products as you see in the LEED rating
2 system --certified wood which the USGBC has promulgated as a way of having best
3 management practices for forestry, including significant replanting, and minimizing the
4 use of trees that are, you know, old-growth trees or trees that cause significant
5 environmental damage when they're cut down. So although I don't mean in any way
6 improperly to dictate to DPS how it should conduct its review of the various rating
7 systems, let me say that I've done some reading and I've had some discussions about
8 the Green Globe's mechanism which we've been lobbied about; and I personally do not
9 favor it as a rating system for use by Montgomery County.

10
11 Councilmember Floreen,
12 Yeah; and let me just follow on, Steve. The options are not precluded –

13
14 Councilmember Silverman,
15 Right. Okay.

16
17 Councilmember Floreen,
18 -- with the legislation. And the – the tax credit material followed – allowed for the state
19 law standards to be employed as well.

20
21 Councilmember Silverman,
22 Okay.

23
24 Councilmember Floreen,
25 We'll see how – we'll flesh that out a little better once we have this language adopted, to
26 make sure it's consistent.

27
28 Councilmember Silverman,
29 Well, I'm not –

30
31 Councilmember Floreen,
32 So it's not designed to preclude any of these other options.

33
34 Councilmember Silverman,
35 Okay. I'm not – you know, I'm not advocating inserting the language; I'm just noting,
36 again from the carpenter's letter, that five other states – Wisconsin, Connecticut,
37 Hawaii, Pennsylvania, Arkansas – plus Maryland, have basically recognized that there
38 may be more than one way to have a green building. And what I'm hearing is that's
39 available through the regulatory process. I would assume that if DPS chooses not to
40 recognize other alternatives – whether you've got it in the legislation or not, you're
41 probably going to run into the same potential legal issues as to whether you put it in the
42 legislation. So it just may move to another place. Okay. I'm fine with that. I just a
43 couple of other quick questions. On the issue of county funding of construction or
44 modification -- 30% of the cost – so how did you arrive at 30%, and do we have – we –



November 28, 2006

1 we – do we have some data – did you have some data from DHCA about contributions
2 that have been made from our housing initiative fund through partnerships? I want to
3 understand what impact this may have on affordable housing.

4
5 Councilmember Floreen,

6 We had some extensive conversation about that, and HOC was present.

7
8 Councilmember Silverman,

9 Okay.

10
11 Councilmember Floreen,

12 We did talk about the percentage numbers -- the Gramax building in Silver Spring was --
13 was something we discussed to make sure that this was going to work. And I am -- you
14 know, I wouldn't doubt there are going to be issues in this regard; but I think that the
15 number of 30% is not a magic number. It is higher than some people would like us to
16 employ in terms of defining county contribution; but I think that the thinking here was
17 that this is a significant contribution for a county presence that should be subject to the
18 standard. It would not apply from are our cursory review of the private sector; this
19 percentage would not require some of the nonprofit initiatives that we are aware of out
20 there from have to adhere to a county standard for their construction.

21
22 Councilmember Silverman,

23 Okay. I have one last --

24
25 Councilmember Floreen,

26 At least --

27
28 Councilmember Silverman,

29 Okay, thanks. One last question. I know you changed the language -- this is at 174
30 through 176 -- so this is when it -- when it applies. So you have to submit at the time of
31 application for building permit the design plans, etc., etc., and there's a requirement for
32 compliance as a condition of building permit; but the issuance of a file use and
33 occupancy certificate is -- is done after the building -- after a finding by the department --
34 by DPS -- that the building has achieved the applicable standard. I'm just trying to
35 understand how this works; because I was informed that oftentimes the determination or
36 -- is it a certification through LEED --

37
38 Councilmember Floreen,

39 Yeah.

40
41 Councilmember Silverman,

42 -- is not done until well after the process. So I'm trying to understand how this is going to
43 work sequentially because you've got a commercial building -- or you've got a
44 residential building, and they present plans to DPS that say, "We think we can meet the



November 28, 2006

1 standard," and then do they get – are they going to get a temporary use and
2 occupancy?

3
4 Councilmember Floreen,
5 Apparently they do. We had quite a – a conversation. We'll get – have we put you on
6 the Advisory Board, Mr. Silverman?

7
8 Councilmember Silverman,
9 Oh, I hope not. I'm just trying to understand from a financing standpoint whether there's
10 an issue.

11
12 (Laughter)

13
14 Councilmember Floreen,
15 We had a considerable issue about financability of these the kinds of – of situations.
16 And if there is a further problem there, no doubt we will revisit it either in terms of
17 looking at this language or regulations; but we are told that a temporary certificate of
18 occupancy that satisfies the banking world can be issued if -- if there's a problem, you
19 know, we will fix it. But the idea – it is certainly true for a number of these elements. I
20 think it's a several year certification or verification process.

21
22 Council President Leventhal,
23 In addition, if you look at lines 190 through 192, it's specifically suggested that a
24 performance bond may be appropriate; and so that – and this is not unique. There are
25 other requirements in the building code that need subsequent verification.

26
27 Councilmember Silverman,
28 Oh, sure. Sure. Thanks. I appreciate the clarifications.

29
30 Council President Leventhal,
31 Mr. Knapp.

32
33 Councilmember Knapp,
34 Thank you, Mr. President. I just wanted to commend everyone for their efforts. I know
35 you spent a great deal of time in the committee and also with staff; and I think a number
36 of critical points have been raised. I appreciate your leadership, Mr. Leventhal, in this
37 because clearly this is something we're going to need to wrestle with. We can't ignore
38 the reality of the environment. I mean, we've all seen or read or heard an inconvenient
39 truth; and that's just one piece of a growing body of scientific evidence of things that are
40 out there that we need -- we can't ignore any longer. And so I appreciate your
41 leadership; and I think they're good concepts, great ideas. Ms. Praisner kind of alluded
42 to this a little bit – that there is a great deal that we still don't know. And the more I've
43 read over the course of the last couple of months, the more it's pretty clear that the
44 more you read, the more – the more it's clear that you don't know. And so I hope as we



November 28, 2006

1 both develop the regulations and as we move forward, that we really do have an eye
2 towards flexibility -- not in lessening standards, but in recognizing the realities of
3 implementation so that we understand and are doing best practices, but we also don't
4 get stuck as we start our conversation this morning -- in a situation like we had with the
5 Shady Grove Master Plan where we have a great plan, but the implementation is
6 perhaps somewhat less than effective, and so that we really recognize that. To that end,
7 I'm pretty sure given the timing of this that we haven't had an opportunity; but there will
8 be increased costs, especially given the leadership role that I think counties should
9 rightly take, given construction of our buildings and facilities. But at some point -- and I
10 don't know if we can do this till the spring -- we ought to try to get some sense as to the
11 impact on our County CIP. I think in everything that we do --

12
13 Councilmember Floreen,
14 We've given it up.

15
16 Councilmember Knapp,
17 Okay. We're -- well, we're making choices; and I think this is the right choice to make;
18 but we need to get those -- that information out there so that people recognize the
19 tradeoffs. I know in the construction of both Seneca Creek Elementary School and Little
20 Bennett, the cost of both of those schools were not significantly more; but, you know,
21 above what the cost of a traditional elementary school is in Montgomery County. And so
22 if we apply this standard to all of our buildings, something -- given our current CIP --
23 likely is liable not to get constructed because there just aren't enough dollars. And
24 again, that's not a bad thing; we just need to be very upfront with folks to say the choice
25 we're making is to take a leadership role in the environment and making sure that we
26 have credibility as a county; and, say, if we're going to apply a standard to the industry,
27 we need to apply it to ourselves. We just need to make we've got that information out
28 there so people understand it from a CIP perspective. And so, to the extent that we're
29 looking at the regulations, there are some estimates I saw in one of the packets as to
30 what we think kind of the increased costs begin to look like -- and if we could get with
31 Glen and, through the spring, begin to look at what that analysis of the impact on the
32 CIP would be -- just so we can begin to have that dialog too. So that would be my only
33 real issue at this point; but I think it's great. I think -- I appreciate the leadership, and I
34 think this is the direction we need to be going. We're going to learn a lot over the course
35 of the next 24 months, and it should be exciting. And again, as we had with the
36 regulations earlier today, I'm sure there'll be any number of glitches and pitfalls as we
37 learn our way through this; but I think it's exactly where we ought to be, and so I
38 appreciate everyone's efforts to get us to this point.

39
40 Councilmember Floreen,
41 Let me just respond. There are issues associated with the long-term operating costs
42 that I think will more than enough makeup for some initial costs. The -- and frankly, the
43 other thing is the industry is changing. When it's a brand new idea and no one else is
44 doing it across the country, of course the challenge is going to be greater; but now there



November 28, 2006

1 is a more competitive environment in terms of resources available to support these new
2 initiatives. And I am -- I know that lead council is looking at changes in their
3 requirements and adjustments to new industry initiatives; and I think we will be the
4 beneficiary of new and creative thinking that is spreading across the country. And as
5 you know, the Council of Governments is pushing this issue throughout the Washington
6 region, and I'm sure we will be working with our colleagues in terms of raising the bar
7 for everyone.

8
9 Councilmember Knapp,
10 No, and I --

11
12 Councilmember Floreen,
13 To help in terms of the cost.

14
15 Councilmember Knapp,
16 Sure. And I appreciate -- you know, I think the analysis shouldn't just be to say, "Oh, it's
17 10% more to build these buildings; therefore, our CIP is going to increase by 10%.
18 Because if you look at even those two schools I just mentioned, the geothermal and
19 heating that they put in place was more expensive than what we typically use; but the
20 payback is within eight and a half years of the operating expenses. And so the analysis
21 should begin to try and look at some of that -- just so we have some ballparks. I don't
22 expect we're going to have the right answers, but at least to know what we're talking
23 about.

24
25 Council President Leventhal,
26 Excellently put -- both Mr. Knapp and Ms. Floreen; and I hope that if we do an analysis
27 of the years one, two, and three costs in the CIP, that we also can begin to estimate and
28 then actually verify the lifecycle savings in operating expenses. Mr. Subin.

29
30 Councilmember Subin,
31 It seems that there's a lot of input coming in here from the forestry interests who see --
32 trying to read between the lines -- that their industry is being endangered; but it also
33 seem to me that addressing those concerns is going to be anathema to this bill. I mean I
34 think the green buildings concept is the number two issue that needs to be addressed.
35 The number one issue is the trees -- are the trees -- is the forest -- however it is and was
36 and the quarrels are in this issue. Because those are the scrubbers for whatever other
37 damages that we do. And as you take the timber down, in the amounts that will be
38 needed to keep up with the building, you're going to take the scrubbers down and make
39 it worse. And it would seem to me that as the regulations are developed, that some of
40 the other alternatives to the wood and the trees be looked at, because they need to be
41 put back and they need to be salvaged and saved. So if there is the companion piece to
42 this -- which is an extraordinary piece, and I thank the president for having it here on the
43 last day that some of us will be here and can say that we voted for this -- that we look at



November 28, 2006

1 the other pieces that go in tandem with it, and all the companion pieces. And when the
2 regulations are put together, that all that is kept out in the forefront.

3
4 Council President Leventhal,
5 Thank you, Mr. Subin, and let me just add directly connected to that, this legislation and
6 others like it in the region and around the country are going to become market drivers;
7 and the value of recycled building material is going to increase, and we're going to
8 create new jobs and new industry in things like C&D Recovery that will also help the
9 environment. So that one of our biggest sources of landfill problems is the construction
10 debris; that construction debris now will have greater value because you get points for
11 using recycled building material.

12
13 Councilmember Subin,
14 Just don't put it at Deville Trading Post.

15
16 (Laughter)

17
18 Councilmember Floreen,
19 Mr. Subin, we have a bill that will be introduced next week that assesses an additional
20 fee against any bicyclists who hits a tree.

21
22 Councilmember Subin,
23 I propose an amendment to that -- only if the tree is damaged. If the bicyclist is
24 damaged, hey, so what?

25
26 Councilmember Floreen,
27 That's the cost of doing business.

28
29 Council President Leventhal,
30 They're not only good scrubbers, they're good blockers too. Mr. Perez.

31
32 Councilmember Perez,
33 Thank you. I'm looking forward to supporting this bill; and I spent some time yesterday
34 asking the question that I ask with every bill which is, Can we talk about the doctrine of
35 unintended consequences. And I confess I have -- there are as many loose ends here
36 as any bill I've seen; that's not a reason not to support it. But it is, I think, an important
37 point to recognize and appreciate; and there are loose ends in part because to a large
38 extent we're making the road as we walk it here. There isn't necessarily a template to
39 pull off the shelf here and tweak appropriately for this county. We are building the
40 template that other communities will indeed use. And I think we have frequently said
41 we'll look at education -- we'll look at the regulatory process as the opportunity to fill in
42 the blanks. Well, this one -- I hope that the regulatory process will occur in the time
43 frame that we've outlined in the legislation; but I am -- I think we are going to learn that
44 there are many, many important loose ends to tie up. Again, that's not an excuse for



November 28, 2006

1 inaction; quite the contrary. We should be moving forward. One legislative item, for
2 instance, in the terms of consequences of this is that I think we need to work with our
3 colleagues in Annapolis on behalf of entities like the college; because the college will
4 not be reimbursed for the cost of compliance with this bill. And perhaps what we can do
5 as a legislative body is encourage our colleagues in Annapolis to change the law to say
6 that the cost of compliance with becoming like Hermit are costs that are, indeed,
7 reimbursable; because this bill will have a direct fiscal impact on the college – and I use
8 the college as an example because I know there are roughly three or four new
9 structures that are going up, and there will be a seven-figure – in the short run – fiscal
10 impact. And I think we should use this as an opportunity to educate our colleagues in
11 Annapolis that providing that match for the cost of compliance with green building
12 design is good public policy at a state level. So we didn't have that conversation at all in
13 the committee; but I think in terms of legislative follow up, items to put on our to do list, I
14 would strongly urge us to do that. And someone mentioned the public education that's
15 going to have to occur because I am frequently asked about the portables in our
16 schools; and for some, portables are a metaphor for our failed public policy. I actually
17 disagree with that. At Takoma Elementary, portables are a sign of our success in terms
18 of getting all day kindergarten. And so that analysis I think is flawed; but nonetheless, as
19 we attempt to simultaneously engage in public policy like we're doing now – which is
20 sound public policy which has short-term additional costs and long-run savings -- it does
21 force us to make some choices. You may not be able to get rid of portables as fast as
22 we can; it may be a – it may take a little longer to get certain additions, modifications,
23 etc. And the public education process needs to begin so that people understand the
24 milieu of trade-offs we are making; and I think these are good trade-offs. And I think
25 once we educate people, that understanding will be in place; but this will have an
26 impact. And I think it's an impact that if people understand, they will, indeed, embrace.
27 But it's not necessarily intuitively obvious at first blush that it was a good idea to put off
28 the replacement of that portable or to put off the school-based health clinic that was
29 going to come in in 2009 and may not come in until 2011; and those are the trade-offs
30 and conversations that we're going to have to have. And that doesn't occur overnight.

31 Council President Leventhal,

32 Well, I very much appreciate your support for this legislation, Mr. Perez. The school
33 system has really – is way out ahead of us in making these things happen; and they're
34 very familiar now with how to achieve LEED silver. They've done it already; and I'm very
35 optimistic with specific reference to the MCPS budget that we will be able to achieve our
36 goals in terms of the reduction of portables and also continue the progress that the
37 school system has been making on green buildings. And we'll certainly monitor it each
38 year, and there are many factors in the construction market that are beyond our control,
39 including some that are within our control – that is, higher standards that we're imposing
40 upon ourselves. But I'm optimistic that we will be able to achieve all of these goals. And
41 I'm also confident, because of many conversations I've had with the public, that people
42 want us to do this – that as our public understands that the choices to build a high
43 performance smart building or a wasteful building, they're going to want us to build the
44



November 28, 2006

1 high-performance smart buildings. And I think that – as you say –as the public
2 understands the choices that we're making, they will be supportive of the decision to
3 impose upon ourselves a very high environmental standard. Chairwoman Floreen, did
4 you have anything further?

5
6 Councilmember Floreen,
7 Just here for questions. No.

8
9
10
11
12 Council President Leventhal,
13 Okay. Now before the Council is Bill 17-06, as amended and as recommended by the
14 Management and – excuse me, by the Transportation and Environment Committee. The
15 clerk will call the roll.

16
17 Council Clerk,
18 Mr. Denis.

19
20 Councilmember Denis,
21 Yes.

22
23 Council Clerk,
24 Ms. Floreen.

25
26 Councilmember Floreen,
27 Yes.

28
29 Council Clerk,
30 Mr. Subin.

31
32 Councilmember Subin,
33 Yes.

34
35 Council Clerk,
36 Mr. Silverman.

37
38 Councilmember Silverman,
39 Yes.

40
41 Council Clerk,
42 Mr. Knapp.

43
44 Councilmember Knapp,



November 28, 2006

1 Yes.

2
3 Council Clerk,
4 Mr. Perez.

5
6 Councilmember Perez.
7 Yes.

8
9 Council Clerk,
10 Mr. Andrews.

11
12 Councilmember Andrews
13 Yes.

14
15 Council Clerk,
16 Ms. Praisner.

17
18 Councilmember Praisner,
19 Yes.

20
21 Council Clerk,
22 Mr. Leventhal.

23
24 Council President Leventhal,
25 Yes. The bill passes 9 to 0.

26
27 Councilmember Subin,
28 Yea, George.

29
30 Council President Leventhal,
31 I want to particularly thank Kathleen Boucher who worked very, very hard on this over
32 the past year; Mike Faden who stepped in to assist as Kathleen was taken out by injury;
33 and I want to thank my chief of staff –

34
35 (Laughter and multiple voices, [INAUDIBLE])

36
37 Council President Leventhal,
38 I want to thank my Chief of Staff, Patty Vitale and also my former Chief of Staff, Valerie
39 Ervin, who began working on this with me more than a year ago. We have
40 representation here. I'm not going to call out everybody's name; but I do want to
41 particularly acknowledge our elite Persian guard of Hamid Omidvar and Shariar Amiri
42 who both were extraordinarily helpful resources; we're very, very fortunate to have both
43 of them. And in general, let me just say about the Department of Permitting Services,
44 the Department of Public Works and Transportation, the Department of Environmental



November 28, 2006

1 Protection, Park and Planning, the school system, and Montgomery College, I have
2 been delighted. I am so grateful at the public service and the excitement that this
3 proposal has elicited. We really do have an opportunity here to make a difference; and I
4 just am very, very grateful for the good work and the input – and HOC also – that I've
5 gotten from all of those public employees who really have done a terrific, terrific job in
6 making this happen. And without objection, I would like to be added as a co-sponsor of
7 Bill 37-06 which would provide a property tax credit for private construction that
8 achieves higher green building standards than the threshold in this legislation. And I'm
9 very grateful for the cooperation of Chairwoman Floreen who sponsored that bill and
10 also Chairwoman Praisner who worked – who has been working with me to ensure that
11 we were able to schedule passage of this bill prior to action on that Bill, 37-06. But I'm
12 eager and looking forward very much to voting in favor of Bill 37-06 at the earliest
13 possible opportunity. Okay. The Council now turns to presentations; and we are going
14 to salute our departing members. And we're joined by former members.

15
16 (Laughter)

17
18 Councilmember Floreen,
19 Retiring members.

20
21
22 Councilmember Silverman,
23 Retiring -- we're not dead yet.

24
25 Council President Leventhal,
26 Well, departing the Council. I didn't say – I didn't say "dying" – and I didn't say
27 "departed." I'm very careful with my words. Okay, and greetings on behalf of all of us to
28 former Councilmembers Bruce Adams, Bill Sher John Menke, Scott Fosler, Rose
29 Crenca, Gail Ewing, Donnell Peterman, Ester Gelman. Those are the ones I see in the
30 front row; we're delighted that you're here. Are there any other former councilmembers
31 here who are not seated in the front row and who I, therefore, didn't see and call out you
32 names. It's so cool that you all have joined us for this meeting. We're very, very pleased
33 you could be with us; we hope you'll stay for lunch. And we have –

34
35 (Laughter and multiple voices)

36
37 Councilmember Silverman,
38 Donnell came for the meal.

39
40 Council President Leventhal,
41 That's why Donnell is here. Okay. And we have presentations for our very good friends
42 and colleagues; and so I'm not going to make a speech because we have
43 presentations. But we're really going to miss you guys. It's been just great serving with
44 you, and we know that we'll continue to be in close communication with you. On behalf



November 28, 2006

1 of a grateful county, we appreciate the four of you. And so we have presentations to
2 make, beginning with Mr. Andrews' presentation to Mr. Denis.

3
4 Councilmember Andrews,

5 All right. Well, one of the great pleasures – and first of all, Hello, everybody. Nice to see
6 you all.

7
8 (Multiple voices and laughter)

9 I like Ike. We like Ike. Well, Howard is an original too; and one of the great pleasures of
10 serving on the County Council has been serving with Howie Denis on the Management
11 and Fiscal Policy Committee and on the full Council. We've served on the MFP
12 Committee the last six and a half years together and able under the leadership of
13 Chairwoman Marilyn Praisner. And on MFP, as some of our former colleagues know,
14 the issues are as dry as they are important. And we know that you will miss MFP.

15
16 Councilmember Denis,
17 I will.

18
19 Councilmember Andrews,

20 In fact, you will miss every future MFP meeting; I'm sure of it. And so one of the little
21 provisions we got in the Verizon deal, unnoticed to many, they're going to pipe in
22 highlights of MFP meetings at the seventh inning stretch of Washington National events.

23
24 Councilmember Denis,
25 Until I confess.

26
27 Councilmember Andrews,

28 That should be good for concession sales. Now, Howie was elected in a special
29 election to the County Council in 2000; and he quickly, in fact instantaneously, became
30 the minority leader – unanimously as well. It had its disadvantages; it was a little solitary
31 at times. But it had its advantages, too. Howie spoke always with a unified voice and
32 was never contradicted. Who else among us can say that? Howie worked on many
33 important issues during his six and a half years. He addressed the rising, the
34 heightening issue of mansionization. He took on the county government when they tried
35 to do a poor sequel to The Iceman Cometh and make the Iceman Goeth. Howie
36 stepped in to protect the Bethesda Iceman, and get him out of the deep freeze. Howie
37 worked closely with Councilmember Tom Perez to make Pepco feel the heat when they
38 weren't providing the light, and we're all better off for that. And then who can forget
39 Seven Locks? Who can forget? Someone can. Who can forget those three public
40 hearings where it was the closest we've ever been to experiencing what Yogi Berra said
41 when he said, "It's deja vu all over again."

42
43 Councilmember Denis,
44 That's right.



November 28, 2006

Councilmember Andrews,

Howie also has shown an interest recently in tidal waves. You know, the political tsunami we had several weeks ago has led to some thoughts about protection against tidal waves.

Councilmember Denis,
Global warming.

Councilmember Andrews,

We might be able to do something about that; to make it retroactive to November 6th will be difficult. But it's been a pleasure to serve with you, Howie. And I do want to say, when people graduate from universities, they have to pay their bills; and Howie at one point was interested in a bill regarding cell phones. And I'll miss your cell phone going off; but we did some calculations –

Councilmember Denis,,
It's a protest.

Councilmember Andrews,

-- and I never knew how many movies Howie and I were at – we were at the same movies at the same time until I heard the phone go off.

Councilmember Denis,
Until the bill passes, I'm going to keep my cell phone on.

Councilmember Andrews,

Yeah. But according to Delphine Harriston your bill was only \$17,050. To leave the Council, you must turn in your cell phone. We don't have credit cards to turn in here, but turn in the cell phone. There you go. All right. And, you know, you can consider his revolver as being surrendered at this point. We'll put it into the coffee fund. But it has been a real honor to serve with you, and I know you will continue to be active in county affairs. You're a real class act, and I'll read you this proclamation on behalf of a grateful county and county council. "Whereas, Howard Denis has been a voice for good and open government for three decades; and, whereas, for 17 years, Howie as State Senator, fought the powers that be in Annapolis for public monies for stadiums, questionable judicial appointments and ethical conduct, often waging a lonely fight in a mostly one-party town; and whereas, Howie brought that independence and integrity to the Council in 2000, taking Pepco to the woodshed for it's failures; offering key support for smoke free restaurants, leading the efforts to ban out-of-cycle property tax assessments, tackling mansionization, and boosting the county art scene; and whereas, Howie's efforts in support of the Potomac Community and the Seven Locks elementary parents and kids led directly to a bold action plan to relieve congestion in the elementary schools in the Churchill cluster; and whereas, everything Howie does is



November 28, 2006

1 informed by his streetwise upbringing in Brooklyn, his kind and gentle nature, his love of
2 history – we will definitely miss the history lessons here. His passion for baseball, and
3 his inclination not make disagreements awfully disagreeable. Now, therefore, let it be
4 resolved that the Montgomery County Council thanks Howard Denis for being a class
5 act and for six years of principled and effective service to the residents of Bethesda,
6 Potomac, Garrett Park, North Bethesda, Friendship Heights, and Chevy Chase, and
7 wishes him and Babbette all the best in the years and road ahead.” Signed on this 28th
8 day of November by George Leventhal, Council President. Thank you, Howie.

9
10 (Applause)

11
12 Councilmember Denis,
13 Thank you, Phil. You may be seated because this is going to take a while. Thank you,
14 Phil, and thank you all. I just want to tell you a story about three people: Frank
15 Robinson –

16
17 (Interruption by cell phone ringing)
18 (Laughter)

19
20 Councilmember Denis,
21 They told me this that was going to happen.

22
23 Councilmember Andrews,
24 \$14,100.

25
26 Councilmember Denis,
27 I put this bill in to ban cell phones in public places and performances; and it didn't get
28 very far – but it got a lot of rings. But,, I want to tell you a story about three people:
29 Frank Robinson, Edith Piaf, and Henry the IV. Now, the connection between those three
30 people may have escaped you all of these years; but you can escape no longer. First,
31 Frank Robinson. On October 1st of this year, I went to say goodbye to Frank Robinson
32 at RFK. I went in part because the people said the Nats would never play baseball in
33 October; and there they were. It was October 1st. The last game of the year, of course.
34 The Nats were in last place playing the Mets, and I couldn't help thinking would – Willie
35 Randolph. Would he have been manager of the Mets if not for Frank Robinson who
36 was such a great pioneer. I saw Frank Robinson hit a home run in the World Series at
37 Memorial Stadium against the Los Angeles Dodgers; and I saw Frank Robinson hit a
38 home run at RFK against the old Washington Senators. So I went to say goodbye to
39 Frank. I never met him; excuse me for calling him Frank, but I feel as if I know him.
40 MVP in both leagues, the first black manager. And what did Frank Robinson say on that
41 particular occasion at RFK after fifty years in uniform? Honored by your presence, Ike;
42 thank you so much for being here. And all colleagues and former colleagues. What did
43 Frank Robinson say on that occasion? He said, "All I have ever asked was to be given a
44 chance, and I was." And that's the way I feel. All I ever asked was to be given a chance,



November 28, 2006

1 and I was. Edith Piaf. After one of the personal tragedies in her life, Edith Piaf went into
2 seclusion; and when the little sparrow emerged, she announced to the world that she
3 had written a song. And the song became her signature song. And I doubt that there is
4 a day or an hour in Paris where the song is not sung or played; and the song is "Je ne
5 regrette rien." "Non! Je ne regrette rien; rien non rien; avec mes souvenirs jamais." "I
6 have no regrets; with my memories, never." And that's the way I feel. I have no regrets.
7 Henry the IV. Not Henry the IV of England; that would be too easy – Shakespeare did
8 that three times. Henry the IV of France. Before he was Henry the IV, he was just a guy
9 hanging out in a bar with his mother in the Pyrenees. But there was a dynastic crisis
10 because Henry the III had died without male issue; and for the French, this was a
11 terrible tragedy. Because under what they called a "salic law," s-a-l-i-c, the salic law, a
12 woman could not be the reigning monarch of France and never was. So what to do?
13 Henry the IV eventually became the first Bourbon king. He was winning battles all over
14 France; but he could never conquer Paris because there was one big problem. You see,
15 Henry the IV was a Protestant. He was a Huguenot. And France then, as now, was a
16 Catholic country. So Henry the IV said, "No problem." He converted. He became
17 Catholic. And he said, "Paris vaut une masse." "Paris is worth a Mass." Well, that's not
18 me. I could never do that. In fact, it did not end well for Henry IV; he was assassinated.
19 But even if he hadn't been, I could never do that. I'm only a kid from Brooklyn whose
20 neighborhood hero was a guy named Jacob Javits who spoke for us and who people
21 listened to. And when my family moved here, I noticed there were a lot of Republicans
22 like Jacob Javits: Theodore Roosevelt; McKeldin, who remains the only Republican
23 ever to be re-elected Governor of Maryland; and Senator Mathias; and Congressman
24 Gude – people I worked for and with; and Congressman Steers; and Congresswoman
25 Morella; and Betty Ann Krahne; and Jean Cryor. That's been my legacy. And it's been
26 a legacy that I have struggled to live up to. So "What is a man" as Shakespeare said, "if
27 the chief good and market of his time be but to sleep and feed? A beast, no more. Sure
28 he that made us with such wide expanse, moving fore and aft, gave us not such reason
29 and godlike capacity to rust in us unused." So I promise this – to you and to myself –
30 whatever talents God gave me will not rust in me unused. Thank you and goodbye.
31 Good luck.

32
33 (Applause)

34
35 (Multiple voices/laughter)

36
37 Councilmember Perez,
38 Mr. President, motion to adjourn till 1:30. I know when I'm in a courtroom.

39
40 Council President Leventhal,
41 Mr. Perez, please come up.

42
43 Councilmember Perez,
44 Okay. My God.



November 28, 2006

1
2 Council President Leventhal,
3 And just to acknowledge – Howie already acknowledged him, but former
4 Councilmember Ike Leggett has also joined us. Tom Perez. Man, I've sat through too
5 many meetings with you.

6
7 Councilmember Perez,
8 The feeling's mutual.

9
10 Council President Leventhal,
11 Tom and I have served both on the Health and Human Service Committee and the
12 Transportation and Environment Committee; and there have been a few – but very, very
13 few – votes where Tom and I did not agree on the need to protect the most vulnerable
14 residents of Montgomery County – the homeless, the aged, the sick, abused and
15 abandoned children, and on the need to provide transportation alternatives and the
16 Purple Line and to protect our environment. Tom has been our lead member for the
17 environment; and we, as Nancy Floreen indicated, have compiled an outstanding record
18 on the environment on this Council. Tom, I was delighted to vote for your four years
19 ago. I wish I had had the chance to vote for you for Attorney General. I was delighted to
20 support you; and we've really, really become friends. It's unusual – I think maybe we
21 both felt this way because both of us in our campaigns the first time sort of sounded the
22 same themes, and we lived very near each other, and I think there was some question
23 on the part of both of us and our staffs as to how two guys with such similar missions, I
24 think, similar desires and objectives –

25
26 Councilmember Perez,
27 Similar hairlines.

28
29 Council President Leventhal,
30 Similar hairlines. You know, how we would be able to interact; and I think both us and
31 our offices have interacted very, very productively for District 5, which I've been proud to
32 be your constituent in District 5, and for the entire county. So I like you a lot. I've always
33 enjoyed sitting next to you. I mean, the meetings run long; and sometimes we've told a
34 joke or passed a note or something like that to keep us alert. And I always look forward
35 to seeing you; and I admire you a lot, Tom. You're a real leader. You have been a
36 strong advocate for issues that I care very, very deeply about. You've made tremendous
37 progress here on this council; and the accomplishments are listed in the proclamation,
38 which I'll go ahead and read now. "Whereas, Tom Perez in only four short years on the
39 Council showed himself to be a force for progressive change in Montgomery County
40 and in the state of Maryland as a whole; and whereas, Tom's passion for justice, for the
41 underdog, and those most in need drove his activism on such issues as prescription
42 drug prices and predatory lending, tax fairness and public education; and whereas, Tom
43 worked successfully to increase minority participation in our fire and rescue service,
44 assist small businesses adversely affected by county redevelopment, and boost



November 28, 2006

1 Wheaton revitalization; and whereas Tom worked effectively as Council President to
2 develop a budget that was both morally and fiscally responsible, and to protect the
3 Agricultural Reserve from future development; and whereas, Tom's record on the
4 Council was preceded by a record of outstanding accomplishment at the federal level in
5 the Justice Department on the staff of Senator Edward Kennedy and with the
6 Department of Health and Human Services; and whereas Tom helped the County
7 Council survey the now famous Trail of Broken Promises, send shudders through the
8 corridors of the Food and Drug Administration, and put Montgomery County on the map
9 of the mortgage lending industry –“

10
11 (Laughter)

12
13 Councilmember Perez,
14 That's one way to look at it.

15
16 Council President Leventhal,
17 "...and whereas, once coaxed by his admiring colleagues out of his naturally laconic
18 and taciturn nature, Tom eventually came to deliver speeches often known for their
19 length – which was altogether surprising given his legal background and lawyers'
20 invariable unwillingness to open their mouths unless they have something to say; and
21 whereas, Tom is one of those rare individuals who will contribute and see and shine
22 wherever he finds himself and whatever task is before him, and do so with passion and
23 integrity and good humor; now, therefore, be it resolved that the Montgomery County
24 Council thanks Tom Perez for his innumerable contributions to the residents of the
25 county and wishes him Godspeed in the next stop of what has already been a
26 remarkable career." Signed by myself today.

27
28 (Applause)

29
30 Councilmember Perez,
31 I will make this very short because three of us are heading over to Wheaton; we have
32 an appointment at the Workforce Development Center. I spoke at the Awards Banquet
33 a couple weeks ago for the Workforce Development Program; and it's a wonderful
34 program as you well know; and I remember thinking, it's like the hair club for men. You
35 know the guy who does that commercial, "I'm not only the owner; I'm a customer." We
36 can say the same here. It's been a great run. George, you've been a great friend. It's
37 wonderful. The most important thing that happens in whatever job you do is the
38 relationships. The trial lawyer in me has difficulty having my back to you. So I apologize.
39 But the knives are back here. I heard that. George, could you stand right there? Thank
40 you very much. It really – you know, Howie, you were talking about "What is a man?"
41 And I thought you were going to start quoting another American icon, Frank Sinatra,
42 because "What has a man if not himself, then he has not," "My way." Howie has always
43 done it his way. So many relationships that I've had is what I will remember. That's what
44 you carry with you from whatever job you take and whatever job you do; and that's why



November 28, 2006

1 I have fond memories. I still go to the Kennedy Christmas party because it's so much
2 fun to reacquaint with old friends. Same way, you know, at the Justice Department. And
3 it'll be the same way here, because we've had a lot of fun, and a lot of laughs. I mean, I
4 think this is a serious job. I mean what we did this morning in terms of the green
5 buildings was a very serious endeavor; and you have to approach your job with a sense
6 of mission and purpose, but also with a sense of humor. And we've had a few yuks; and
7 I think it's important to take your job seriously but not to take yourself too seriously – a
8 very significant problem for politicians I will not parenthetically. And I've tried not to do
9 that. Oh – welcome to my good friend, Derick Berlage – one of many people. Ike you
10 may remember – oh, about five years ago – sorry, I have a little tickle in my throat today
11 from my kids – I remember coming to see Ike Leggett in his office. It was budget cycle,
12 four and a half, five years ago. And I said, "Ike, I'm thinking of running for the County
13 Council; and I'd like to get your views." And he asked me the important question which
14 is, Why do you want to run? That's the most important question you can ask anyone.
15 Parenthetically, memo to file, someone should have asked Senator Kennedy to prepare
16 for that question in 1980; but that's a different issue for a different time. And I remember
17 my answer which was, I wanted to make a difference. And I remember asking Ike,
18 "Well, how do you feel you've made a difference?" And I was waiting for him to talk
19 about the Purple Line or the big issue of the day – affordable housing, or whatever the
20 big issue of the day was – and I remember very vividly what your answer was. And it
21 wasn't the big issues. It was the little things. Although when you're helping somebody
22 who has a "little" problem, it's anything but little for them. And that's what I remember
23 the most. And that's what I will remember the most about this job, is the little things. I
24 mean, I remember sitting there and there was about four hundred people at that
25 meeting – it was anything but little to the communities that were suffering when we had
26 the hurricane. And my friend Aron is here. I remember going on a tour of the dump and
27 thinking, "Now why, Aron, are you taking me on a tour of the dump?" And Aron, of
28 course, there was – he was a pig in mud – he's the only guy I know – he was a kosher
29 pig in mud, okay? He was a horse in mud – is that better? And I remember at the end of
30 the tour, it took us to the Shady Grove Depot where they, among other things, sort the
31 recyclables. And I remember watching that process. And it's very low tech. You know,
32 we put our recyclables at the curb; they get picked up by a truck; they go to Shady
33 Grove; and it is sorted in a very low-tech process. And I worked on an assembly line
34 one summer; and so I really appreciated the hard work. And I hadn't thought about this
35 story until I saw you standing there, Aron. And I remember saying to Aron, "Well the
36 good news – this is hard work." And I really had great respect for that, especially
37 growing up in Buffalo, New York. And I remember saying to Aron, "Well, the good news
38 here is at least these guys and women are making a living wage as a result of what the
39 Council had done." And Aron turns to me somewhat sheepishly and says to me, "Well,
40 Tom, there was a loophole in our Living Wage Law; and these folks, for reasons I will
41 not bore you with, were all making \$6 an hour with no benefits." And we changed that
42 thanks to Aron Trombka and his magic, and thanks to the support of the Council. And if
43 you go to the Shady Grove Depot today, you'll meet fifty or sixty very hard-working
44 people, all of whom are making a living wage and now all of whom are getting county



November 28, 2006

1 health benefits as a result of the nine of us and my good friend, Aron, the horse in mud.
2 And I apologize for that. So, Ike, you were right – as usual. And this job has been about
3 making a difference. There will always be unfinished business. There still is unfinished
4 business here, and I look forward to helping you complete that unfinished business. But
5 I want to say thanks to – I see Dan Parr there. We've been through a little bit together. I
6 see Barbara. I see – I know Chong Hwa was here, and I know Rosa was here. My staff
7 has been wonderful. This Council staff has been wonderful. I really – for me, fingernails
8 on chalkboard when people try to ridicule bureaucrats. And it's a time-honored tradition
9 among political elected officials to ridicule bureaucrats as a way to score political points.
10 Well, I was a bureaucrat. Steve Farber is one of the best bureaucrats I know. And I use
11 that term in the best sense of it. And there's such a wonderful staff here that have made
12 us look far better than we ever deserved to look; and I'm very, very grateful for that. Life
13 is a chapter book. That's what I tell my students at the University of Maryland Law
14 School, and you've got to be able – and I'll end by quoting yet another baseball hero,
15 Lou Gehrig. "You gotta bat a thousand." You've got to be able to say at the end of your
16 life, "I'm the luckiest man alive." And you do that, I try to tell my students, by getting
17 involved in things you care about. That's what you've got to do. Lawyers. That's why we
18 have so many lawyers on the County Council, because we haven't found –

19
20 (Laughter)

21
22 Unidentified Speaker,
23 We took a hit there.

24
25 Councilmember Perez,
26 But you know what? You know what it is though? Lawyers have a disproportionate
27 amount of mental health bills because they find themselves getting into these
28 professions and jobs that are financially rewarding but spiritually bankrupt. And that's
29 why I tell my students, "You've got to get into something that you care about – that gets
30 you up in the morning." And that's why I feel like Lou Gehrig. Every chapter has been
31 fun, exciting, rewarding. That's what you've got to do. Thank you.

32
33 (Applause.)

34
35 Council President Leventhal,
36 Let's hear it for Tom Perez.

37
38 Councilmember Floreen,
39 Steve requires two councilmembers because he's kept us busy. I just want to say,
40 Steve –

41
42 Councilmember Silverman,
43 Nancy.



November 28, 2006

1 Councilmember Floreen,

2 You've been a great leader. I've learned a lot from you. I didn't realize actually until this
3 morning that you didn't chair a committee your first term on the Council. I didn't realize
4 that –

5
6 Councilmember Silverman,
7 I blame Mike for that.

8
9 Councilmember Floreen,
10 -- which explains, I think, why we had 218 PHED committee meetings. We had a whole
11 term to make up for. I calculate that to be about a thousand hours – at least – would you
12 say, Marilyn?

13
14 Councilmember Praisner,
15 At least.

16
17 Councilmember Floreen,
18 In PHED Committee work which resulted in nine pages of zoning text amendments –
19 more or less – which we mostly –

20
21 Councilmember Silverman,
22 Hey, I didn't sponsor all of those.

23
24 Councilmember Floreen,
25 You didn't sponsor all of them – all of which have a story, all of which were designed to
26 address a real community issue, all of which involved significant public participation an
27 debate. And you fueled that effort. What you've brought – at least to my world here – is
28 attention to detail – which is why I'm going to open Number W on our consent calendar
29 – to add you to the Department of Permitting Services Advisory Committee.

30
31 Councilmember Silverman,
32 No, no, no.

33
34 Councilmember Floreen,
35 Ike? First item on the agenda, because Steve's attention to the real questions that
36 matter have made a significant difference. You pushed forward the – particularly on the
37 housing front, you have created a whole new environment for the expectation for
38 affordable housing in Montgomery County. And it's been your creative leadership on the
39 transportation area, Ike – you want to keep this intact – that we have deals on the table
40 to deal with the State to advance some of our most difficult, most complicated, and most
41 expensive transportation initiatives. And we couldn't have done that without your
42 assistance from Department of Finance that they keep looking at sources that we could
43 find that did not affect the property tax base. And you did it. You kept annoying them
44 and harassing them, and they finally came up with something that we could use.



November 28, 2006

1
2 Councilmember Silverman,
3 It's our drinking and driving initiative.

4
5 Councilmember Floreen,
6 It is indeed. So I thank you for that. I think you've set the standard for finding solutions
7 to real problems, and being able to make the hard decisions – helping us make the hard
8 decisions that have been able to lead us forward. We have done so much on the
9 stormwater management front, on the environmental front, and on the development
10 front. I think that's going to make Montgomery County a better place because of you,
11 and I thank you for it.

12
13 Councilmember Silverman,
14 Thank you.

15
16 Councilmember Floreen,
17 And my personal gift to you is a bill for all the pistachios that you have eaten from my
18 office. This is your last –

19
20 Councilmember Silverman,
21 The last –

22
23 Councilmember Floreen,
24 And we'll be sending you a bill.

25
26 Councilmember Silverman,
27 Thank you. Thank you.

28
29 Councilmember Floreen,
30 Mike.

31
32 Councilmember Knapp,
33 Now, I just want to first again thank all of our former compatriots for coming out to share
34 with us today because I think that's important. One of the challenges we always have is
35 to recognize that which has gone before, and then to try and bring the new. And I think
36 that Steve has one a great job of trying to do that during his eight years on the Council.
37 As Tom was talking about his meeting with Ike five years ago, I – we all kind of did the
38 same tour to try and meet with councilmembers. And I had one I couldn't meet with. And
39 I kept trying to get Steve on the schedule and it didn't work and I couldn't figure out why.
40 And then it became clear – because he was trying to get someone else to run for the
41 seat that I was trying to run for.

42
43 Councilmember Silverman,
44 A small detail. Once we got past that little piece, we've been great friends.



November 28, 2006

1
2 Councilmember Knapp,
3 I've was with you right from the beginning.

4
5 Councilmember Floreen,
6 You've been wanting to say that for a long time.

7
8 Councilmember Knapp,
9 No. But the thing that impressed me, and Steve was committed to -- really to the county
10 all along to really -- I was amazed at -- and this is a great thing to learn -- the ability to
11 really stay on message. After once we finally sat down to talk, he talked about his theme
12 when he first ran which was, "Kids, cars, and community." And his ability to really stay
13 on that message to the point that you'd sit there and say, "Wow. That's getting a little
14 old." But really -- and I learned a lot from that because that's the theme and that's how
15 you get things done, is really staying on that message. And I would add that two other
16 things he's really focused on are housing and to add the humor. Irrespective of how
17 difficult the issue may have been, Steve was always good to drop in that line that would
18 break the tension and keep us all moving in a direction and recognize while it's serious
19 and while it's important, we can all still be friendly and have a good time trying to do it at
20 the same time. I've always been impressed at his ability to really ask those hard
21 questions. There was always the 800 lb. gorilla in the room, and you kind of look in the
22 other direction. You could always tell when it was there because people weren't make
23 eye contact; and Steve would inevitably be the person to ask the question that would
24 bring that issue out to the fore. And then, really, his high level of energy and his
25 commitment. I just keep -- he's always going. He's always doing things. And I have
26 been struck by the saying he has in his office which is, "Those people who say
27 something can't be done should get out of the way of the people doing it." And I think
28 that really is a testament to what Steve has done during his eight years on the Council.
29 It's been my pleasure to serve with you.

30
31 Councilmember Silverman,
32 Thank you.

33
34 (Applause)

35
36 Councilmember Floreen,
37 We have clever remarks constructed by others. Okay. You'll notice, we have gone all
38 out for the councilmembers.

39
40 (Multiple voices; [INAUDIBLE])

41
42 Councilmember Floreen,
43 "Whereas, Steve Silverman is ending eight years of stellar service on the Montgomery
44 County Council, including two terms as Council President and four critical years



November 28, 2006

1 (interesting term) as Chair of the Planning, Housing, and Economic Development
2 Committee, and –“

3
4 Councilmember Knapp,

5 “Whereas Steve Silverman’s list of accomplishments on the Council is long and includes
6 the areas of: traffic congestion relief; full-day kindergarten and smaller class sizes;
7 parks and ball fields; Silver Spring revitalization; help for small businesses; and
8 assistance for seniors, the homeless, and the working poor, and – “

9
10 Councilmember Floreen,

11 “Whereas, Steve almost single-handedly raised the importance of increasing the supply
12 of affordable housing in the county, championing changes in our MPDU program to
13 increase the number of affordable units, pushing hard to identify county-owned land for
14 affordable housing projects; prioritizing affordable housing within master plans; and
15 crafting a policy for workforce housing, and –“

16
17 Councilmember Knapp,

18 “Whereas, Steve’s gift of gab, nose for policy, love of politics, and self-deprecating
19 humor have made him a force to be reckoned with on the county scene, and –“

20
21 Councilmember Floreen,

22 “Whereas, while politicians’ promises are broken right and left, Steve delivered the
23 promise as Council President to bring home a world championship for the beloved
24 Boston Red Socks.” And let me just add, there’s going to be a problem on the next
25 Council in terms of that. Yankees -- the problem right there. “...thereby consigning the
26 dreaded curse of the Bambino to history’s waivers wire. Now, therefore, be it resolved
27 that the County Council thanks Steve Silverman for his drive, genius, and dedication to
28 the common good of Montgomery County, and wishes him and his family success in his
29 post council endeavors.” Thank you, Steve.

30
31 Councilmember Silverman,

32 Thank you.

33
34 (Applause)

35
36 Councilmember Silverman,

37 Well, thank you very much. It’s going to be very hard to be brave – for those of you who
38 know me – but I’ll do the best I can because I know we have lunch. And besides,
39 Subin’s following me. So first of all, I want to thank the Council staff as a whole. We
40 have a wonderful family here. Those of you who have served behind the dais know
41 what this is like. It’s a remarkable amount of people who get up every day committed to
42 doing good for Montgomery County and for the region because a lot of our issues are
43 regional and are trendsetters. As we talked about a little earlier, the green building
44 legislation that we passed -- and I thank my colleague, George Leventhal, for his



November 28, 2006

1 leadership on this -- is going to set the standard for the region; and we've done a lot of
2 things like that over the past -- this Council and previous Councils. I also want to thank
3 my personal staff; Chris is over there, and Ann Brown who I was the beneficiary of Mr.
4 Hanna not returning to the Council eight years ago, and just a remarkable person who is
5 on loan to Ginny Gong for a while and doing a great job there. And what can be said
6 about Peggy Fitzgerald Bare for those of you -- Scott and Gail and Bruce -- I was the
7 beneficiary of her years of working with you and all the leadership that you showed on
8 the Council, and I'm forever grateful for being able to hit the ground running. Gosh, I
9 want to be semi-serious for just a second and say -- pick up on something Tom talked
10 about. Why do we do this? We do this because we want to try to make a difference.
11 That's the oldest cliché in the book, but it is absolutely something that I have felt and
12 shared a kinship with in the people that are here and those previous to me. When you
13 talk about mentoring, my true good friend -- Ike Leggett -- was a mentor to me when I
14 first got to the Council. I learned a lot from him during the wars of Silver Spring and the
15 fight over Blair High School which he and my other good friend Derrick Berlage led the
16 effort on which was so very, very important to keep that community together. And the
17 effort of the whole Council and the guy who's not in the room, Doug Duncan, to
18 revitalize Silver Spring which is where I first really got involved in community activities is
19 a test to what government can do. It can truly be a partner. But I -- my wife used to work
20 at the Academy of Leadership over at College Park and worked very closely with James
21 McGregor Burns who sort of created the field of leadership in the country. And he talks
22 about the difference between transactional leadership and transformational leadership.
23 And I have to say, looking at not only this Council, the previous Council and other
24 Councils, Montgomery County has an incredible tradition of being out there -- way
25 ahead of other folks -- and taking a lot of flack for it. I know -- I see Bill Sher's here -- and
26 I know what he and others went through many, many years ago in terms of when you
27 talk about housing legislation -- back then it wasn't about -- it was about affordable
28 housing in terms of MPDUs, but back then it was really about whether people were
29 going to have a right in neighborhoods or not -- or whether they were going to be
30 subjected to discrimination. Montgomery County was a leader because of the people
31 who have sat here before me. In the last, you know, eight years or so, we've made
32 incredible strides that will make a difference for generations to come, whether it's on
33 housing, whether it's access to healthcare for the uninsured, whether it's class size
34 reductions and all-day kindergarten which will really give kids a chance to succeed in
35 later life. We've already seen what's happening there. There's a list of things that have
36 happened on this Council, and I don't see Jennifer here. But I'll use it anyway. Which is
37 Jennifer Hughes' great line about how we're all in this together -- which we are. We
38 have worked together. We've had disagreements. There is no question about it. But
39 fundamentally, we have moved forward in this county in a way that should make all of
40 us proud -- whether you've worked as a staffer; whether you've worked as a community
41 activist, and we have so many of those up here in the room and thousands outside the
42 room who have made this a great county; and the councilmembers, all of whom have
43 stuck their neck out time and time again on issues -- many of which are controversial --
44 because it was the right thing to do. And we are proud -- we should be proud of what



November 28, 2006

1 Montgomery County has done and the leadership role it has played for the state and for
2 the country on many of these initiatives. My plans for next year didn't work out; but I
3 have to say, I am so grateful that we will be led by an outstanding County Executive in
4 the persona of Ike Leggett, a dear friend of mine, a friend before we started
5 campaigning and a friend after. It was a very hard thing, I think, certainly for me -- and I
6 know for Ike as well -- for us to get into the ring together. But I know that we will have a
7 great leader in Ike as County Executive. We are going to have some great, new, vibrant,
8 exciting leadership that is going to come to the County Council, and I know we will
9 continue to move ahead. I don't have any great, pithy quotes. I could pull out a few
10 Yogi Berra-isms. But I will just close by saying that -- paraphrasing Theodore Roosevelt.
11 And this is really addressed to all of you who have served here, which is he talked about
12 the man or woman in the arena and how very important that is. Now, for those who
13 serve in elected office, that's one level; but for all in this community who get up every
14 day to make a better place for everybody to live, work, play, and learn in Montgomery
15 County, I'm very grateful for that. I'm honored to have had the opportunity to serve this
16 community and this county, and will continue to do that in whatever way, shape or form I
17 can. And it's been a true honor and privilege to serve the county, and it's nearly a million
18 a residents -- and I'm very grateful for the friendships and relationships and working
19 relationships that I've had for the past eight years on this Council. Thank you very much
20 and God bless.

21
22 (Applause)

23
24 Council President Leventhal

25 Mrs. Praisner has a presentation for Mr. Subin, and we welcome former Councilmember
26 Derick Berlage.

27
28 Councilmember Praisner,

29 Well, before I talk about the formal Mike Subin, I want to spend a little bit of time -- and
30 he's already given me an order telling me I can't talk long. But that's -- I'll take orders
31 from Mr. Subin this one last time. Because I wanted to share by giving Mike a few
32 personal gifts. Folks will note that the bag is a tree bag. I felt that using trees and stars
33 are most appropriate since you've had -- well, that's the only bag I could find with trees
34 and stars. They're five points, I apologize.

35
36 (Laughter)

37
38 Councilmember Praisner,

39 But I know how much you love trees, and I understand that the last time you had a more
40 in-depth encounter, you saw stars. So I thought this was appropriate.

41
42 Councilmember Subin,

43 A lot of stars.



November 28, 2006

1 Councilmember Praisner,
2 A lot of stars. I have some personal gifts for you, Michael. One is a box of Wasabi
3 peanuts. Given our many noodle-sharing experiences, I know your love for Wasabi.
4

5 Councilmember Subin,
6 I want to make sure they're nuts in there.
7

8 Councilmember Praisner,
9 There are nuts in there. It's not a – it's real. So I wanted you to have that. Secondly, if
10 there's one thing – the proclamation makes reference to it as well – there's one thing
11 that has epitomized – David Scull everybody. If there's one thing that's epitomized Mike
12 Subin's terms on the County Council, it's been his passion and compassion for people --
13 and what he sees and experiences and learns about, and how he tries to respond as
14 effectively and as quickly as possible to those people's concerns. So I've bought you
15 some people's Green Tea for you to remember that the people will always be with you
16 because you have always been with them. Next, you have to know Mike Subin –
17 everybody does – to know that wisecrackers are very appropriate for Michael. So these
18 are low fat.
19

20 Councilmember Subin,
21 Oh, good. Good.
22

23 Councilmember Praisner,
24 Spicy pepper, non-hydrogenated oil wisecrackers. And they're made by Partners which
25 I thought was also appropriate. And finally, Michael, just to make to make sure that this
26 will be a brief speech because the chocolate I'm giving you is dark secrets just between
27 you and me – which means I'm not going to tell everybody.
28

29 Councilmember Subin,
30 Marilyn, I promised from the beginning not to tell either.
31

32 Councilmember Praisner,
33 So given all our myriad of conversations over the years, many of them between us, the
34 dark secret chocolates are for you. And you can take the bag as well to take them
35 home. Seriously, I can't remember the first time I met Mike Subin. I think it might have
36 been at the Board of Education Meeting; but over the years, Mike Subin's been a part of
37 my life. And he will continue to be; but he's been a part for so many years of
38 Montgomery County's life and given so much to Montgomery County – whether it is
39 young people, the school system, education, domestic violence issues, public safety
40 and emergency response issues. The list is so long that that's why I'm going to be brief;
41 because if I went through all of them, we'd be here through lunch hour; and I know you
42 told me I'm not allowed to do that.
43

44 Councilmember Subin,



November 28, 2006

1 I've got my lunch. I don't care.

2
3 Councilmember Praisner,

4 So instead I'm going to tell you that this county will be forever grateful for your
5 commitment and dedication to public service, to the people of this county, and to the
6 institutions – including protection of the Council as an institution and protection of the
7 county executive as an institution. You are well read; you are well informed; you are well
8 committed to the people of this county; and we love you.

9
10 “Whereas, Mike Subin is completing twenty years of service to the residents of
11 Montgomery County as an at-large member of the Council; and whereas, Mike's love for
12 the county and it's people is amply demonstrated by his long list of legislative
13 accomplishments, and by the leadership he has given over the twenty years as Council
14 President and also as Chair of the Education Committee; and whereas, Mike has been
15 the strongest and most effective advocate for strengthening the Montgomery County
16 Public Schools and Montgomery College, working closely with school leaders
17 throughout his tenure to garner the resources necessary to build the schools and
18 empower the staff to excite the talents of hundreds and thousands of students; and
19 whereas, Mike initiated the Linkages to Learning”– thank you for letting me participate in
20 that – “program to target social services to children and families in order to improve
21 school performance and champion programs such as Sharp Street and others to
22 engage and improve the life for at-risk students and youth; whereas, Mike has also
23 worked closely with our public safety agencies to respond to emergency situations, to
24 give our police and fire fighters what they need to protect lives and property and
25 themselves, and to strengthen the battle against domestic abuse; and whereas, Mike
26 has done all of this by dint of hard work and plain speak, avoiding the limelight and
27 being also eager to share the credit; and whereas, Mike has been at his very best when
28 serving as Council President where the values of leadership honed in public service and
29 in the military have been on most prominent display; and whereas, tackling hard issues
30 – no matter the possible consequence -- has been his mantra. Now, therefore, be it
31 resolved that the Montgomery County Council thanks Michael Subin, Michael L. Subin,
32 and extends congratulations on duty faithfully performed on behalf of a grateful county
33 and wishes him all the best in the days and months and years ahead.” And it's signed
34 by George Leventhal.

35
36 (Applause)

37
38 Councilmember Subin,

39 Thank you. I've been disturbed a little bit about a pattern that I've really –

40
41 (Multiple voices [INAUDIBLE])

42
43 Councilmember Subin,



November 28, 2006

1 I lost my hair and gained 50 lbs. over the last twenty years, so -- you know, I read this
2 morning an article by David Brooks in the New York Times. It was an op ed piece on
3 Bobby Kennedy. And what Bobby Kennedy after the death of his brother was reading a
4 book about ancient Greek philosophers and the meaning of death and what death had
5 to do with life and how one could -- before one died -- celebrate life and do things. And
6 then I see Pastor Peterman walk in. And then I hear President Leventhal talk about
7 departing councilmembers. And then I hear this echo from Councilmember Andrews
8 and my very dear friend, Marilyn, I think it goes back well over a quarter of a century,
9 about a grateful county. Now, for those of you who've got any experience with military
10 funerals, the very last act is an officer going up to the bereaved widow or widower or
11 whoever else, and saying "on behalf of a grateful nation," so --

12
13 Councilmember Praisner,
14 The nation doesn't care.

15
16 Councilmember Subin,
17 The nation doesn't care, but my county is grateful that I'm departing. Howard, I'm not
18 going to be as eloquent as you. I'm just a little guy from North New Jersey whose role
19 model was Hugh Addonizio, not Theodore Roosevelt -- one who put people in jail, the
20 other who ended up in jail. I won't say which is which. I am awed by what is in front of
21 me. I have always felt that this is a tremendous county. I mean it didn't accidentally
22 happen. And we who, on a weekly basis, tend to take credit for certain things, many
23 times forget the foundation that was built before us by a number of people. And so that I
24 miss nobody and slight nobody by going in extemporaneous order, I'm going to start
25 with Derick Berlage. Derick Berlage, our former colleague up here who led the way on
26 the issue -- we talked about trees earlier -- if there's anybody who led the way for
27 environmental issues on this Council and on reforestation, it was Derick Berlage, who's
28 legacy I hope will literally and figuratively last in wood for many years. There's David
29 Scull who in his tenure here focused on clean government, open government, honest
30 government and getting it all out there. We think we've come up with this new term
31 about "transparent" government, but David was the one who really pushed that issue --
32 didn't call it transparent then, but just did it as it was. Bruce Adams, my colleague when
33 we got here twenty years ago -- the whole environmental issue and the issue of
34 recycling. I remember so vividly it was Bruce Adams who challenged the Council back
35 then and who challenged the community to stop wasting space in the ground with trash
36 dumps and trying to reduce the size of incinerators by putting out this psychedelic
37 notion of 50 % recycling. Well, we're getting there, folks. And, you know, more and more
38 you drive around this county; you see the recycling bins, you see the newspapers being
39 recycled, and that's because of Bruce. Bill Sher. We talk about fair and affordable
40 housing. Bruce was out there well before -- I'm sorry. Bill was out there well before
41 anybody; and Bill was one of the first ones out there, setting the goal, making sure we
42 kept moving the goal posts on what was right and where we should be. John Menke
43 who is another one of the great pioneers on the environment. John was out there when
44 Bill was; and John was one of the first ones who was saying, "We need to be



November 28, 2006

1 environmentally friendly,” and who really went out on a limb when it came to issues
2 regarding the environment and, again, leading the way and building the foundation for
3 where we went and where we ended up. Scott Fosler who was always out there on the
4 edge when it came education, when it came to trying to build a strong, solid, economic
5 base – not so that he could make the money being up here, but so that there would be
6 monies coming in to provide all of the services that we need to. Because those services
7 can’t be provided without that money; and Scott formulated all the policies, most of the
8 policies, that had to do with that. Rose Crenca. Many of us forget back twenty years ago
9 where the issue of the renovation – the modernization of Silver Spring came up. That
10 was Rose Crenca. Rose was the one who went out there on a limb and pushed and
11 pushed and pushed. And she paid a price for it, you know? And when you think of folks
12 who paid a price for doing the right thing, Rose comes under that Montgomery County
13 Profiles in Courage in pushing what needed to be done. And I am convinced that no
14 matter what has happened since, had Rose not done that, we wouldn’t be where we
15 were in Silver Spring. Gayle Ewing – Professor Ewing who is now teaching a new
16 generation of youngsters what it is to govern; who was so instrumental in the issues
17 regarding Health and Human Services; who set up the structures that we have today;
18 who went out there for a vulnerable population – the mentally ill – and made sure that in
19 government we have the instruments to take care of those who really have no voice.
20 And that was Gayle, and I hope that the students in her classes are learning those
21 lessons. Pastor Peterman. Oh, my. Donnell Peterman was with us for only six months;
22 but in those six months and in the time that followed, really touched our consciences on
23 the issues of diversity and making sure that the institutions in this county – especially
24 Leadership Montgomery – were preparing those of color and immigrants and those who
25 didn’t have a really heard start in life to be able to take the lead and become the face of
26 this county. And that this county’s face was changing and that he was going to do. And
27 then there’s Ester Gelman – Mrs. Education. We have a great education system today
28 because of all of the work that Ester did when she was on the Council. Everybody -- and
29 I especially remember this having served on the Board of Trustees at Montgomery
30 College, when everybody was saying, “No. No. No. We’ll never need it” to the
31 Germantown campus, it was Ester Gelman who kept pushing and said the future is
32 there, and unless we do that. And Montgomery College is in great shape today and has
33 been able to serve the number of people it has because of the work that Ester did. And
34 then our friend Ike Leggett. I think I will save and see what you do over the next eight
35 years.

36
37 Unidentified Speaker,
38 You’re on probation.

39
40 Councilmember Subin
41 When it came to education and transportation and housing and dealing with vulnerable
42 folks and the folks who had humble starts, Ike went back to his roots -- which is
43 something that may of us rarely do – to learn the lessons and bring those lessons
44 forward of what was needed. So, Ike, we know over the next eight years, you’re going to



November 28, 2006

1 do the same thing, and county has a bright future. But there were unelected officials
2 always behind the scene, Peggy Fitzgerald Bare and Meryl Steiner, who were here
3 longer than any of us – except for maybe Ester. People do not understand what the
4 quiet folks behind the scenes on the sixth floor mean to all of us; and while I've got tell
5 you they got their paychecks from specific councilmembers, Meryl and Peggy served
6 everybody. They served us all. Our own chiefs of staff ran to them. Councilmembers ran
7 to them. And their fingerprints are on so many budgets and initiatives that we have. And
8 we've all been fortunate to be in the shadows of the two of you. My staff, Nancy Aldous,
9 who's been with me for the entire time and [INAUDIBLE] video. Jackie Hawksford,
10 Brian Fish aren't here; but, folks, if anybody's had to put up with a lot – and you all think
11 you know it, you don't know the half of it. And the dark secrets – you know. But I also
12 want to address another group, and Steve started to touch on that. And I think Lou's
13 going to probably kill me because he's heard this story so many times. But I need to say
14 this publicly again. Stephen Ambrose, the historian, wrote what I thought was an
15 incredible book on D-Day and Eisenhower, and it goes to a very poignant point in the
16 early hours on the 4th of June in 1994. D-Day had already been postponed once. It was
17 stormy. It was horrible out. No one knew what the weather was going to be like. And for
18 those of you who have been fortunate or unfortunate enough to be part of an
19 amphibious landing, there is nothing that those of us who did that kind of worked feared
20 more than rotten weather. And if you've ever seen the films of marines running onto the
21 beach going, "Oo-rah, oo-rah, let's go get 'em," No. No, what that is is just their being so
22 happy they're getting off the boats. But what Ambrose does is has the agonizing
23 decision of Go/No Go that Eisenhower had to make. And it was, I don't want to
24 postpone it again. Everything has started moving. Rommel and the rest of that staff –
25 they've gone home. It was Rommel's anniversary. He went home to his wife. All the rest
26 of the general staff had left because they figured, "What the heck," you know? Those
27 crazy Americans and the Allies aren't going to do anything in weather like this. And the
28 meteorologist said, "General, there's going to be a hole of a couple of hours in the
29 weather, so I think we can do it." So Eisenhower went down – it was like 4:00, 4:15 in
30 the morning – and went down to the Gathering Hall where all the admirals and generals
31 were and simply said, "Let' go." There was a great shout. All the generals and admirals
32 left to inform their staffs, "It's a go. Keep moving." And Eisenhower found himself in the
33 room all alone. And Ambrose goes through this story where Eisenhower feels he's
34 helpless. Now, here's a guy with four stars with what amounted to up until then and
35 since then the greatest military force in history, and he's feeling helpless. And he felt
36 helpless because he knew that everything was now in the hands of all the young
37 captains and sergeant in that invasion force. The fifth floor of the Council Office Building
38 is inhabited by those captains and those sergeants. They are the unheralded heroes of
39 this county. The folks in front of me built the foundation. The folks on the fifth floor are
40 the ones who keep it going. Bruce Adams and I had a discussion the other day in which
41 he asked me – he said, "You know, we're [INAUDIBLE] all this great stuff in the county.
42 Do you think we can keep it going?" And my answer to Bruce, probably, I didn't think of
43 it back then, now is, "Yeah. I think we can." Because we've got the captains and
44 sergeants who are going to keep do the re-looking, the re-thinking, the re-tooling to get



November 28, 2006

1 that to happen. And this is an extraordinary group of people and this is an
2 extraordinarily lucky county to have them. And finally, I saved for last, my friend Marilyn
3 Praisner. Over the last twenty-five years, Marilyn and I have had many differences.
4 We've had many agreements.

5
6 Councilmember Praisner,
7 A lot more of those.

8
9 Councilmember Subin,
10 We've had more agreements than differences; but, you know, we were always able to –
11 one or the other, even after our differences up here – one or the other would walk out
12 and say, "Hey, I'm going to get coffee or tea. Do you need any? Let's get ready to fight
13 the next fight." Marilyn to me epitomizes what our system of government is all about. It's
14 what Scott, David, Bruce and others were out there pushing all the time. She was there
15 on the Board of Education. She was there with a group called "Ed-pack." And for any of
16 you really old-timers, don't admit it; but we know what that was. It would shape what we
17 can all do. So I leave here – I'm awed that I've been able to, for the last twenty years,
18 bask in the shadows of these folks and bask in the shadows of the folks on the fifth
19 floor, and bask in Marilyn's shadow. And having thought about that book that Bobby
20 Kennedy kept in his pocket – whenever the end may come, and I don't plan on it being
21 today, although there are trees out there – it will have had meaning. And it will have had
22 meaning because of all of them and all the folks on the fifth floor, and all the lessons
23 that my friend Marilyn has taught me over the years. So thank you all.

24
25 (Applause)

26
27 Council President Leventhal,
28 Michael, stay there. Michael – stay there. Michael, Howie, Tom, and Steve, please step
29 to the front. One last time. We've baked brownies for each of you. No, this is the
30 ceremonial plate –

31
32 (Laughter)

33
34 Council President Leventhal,
35 Former councilmembers are laughing because they know about the ceremonial plate.
36 The only reason – for those of you who don't know about this – the only reason, really,
37 that we run for this office and work so hard is to get the plate. Tom Perez. Steve
38 Silverman. Michael Subin. Howie Denis. Let's hear it for these four great guys.

39
40 (Applause)

41
42 Councilmember Praisner,
43 Don't break the plate. But then again, if you break the plate, we have more.



November 28, 2006

- 1 Council President Leventhal,
- 2 Okay. We are going to recess for lunch. We're going to recess for lunch and, with
- 3 regret, the Public Hearing will be delayed until 2:30. Public Hearings will commence at
- 4 2:30.

November 28, 2006



TRANSCRIPT
November 28, 2006

MONTGOMERY COUNTY COUNCIL

George Leventhal, President	Marilyn J. Praisner, Vice President
Phil Andrews	Howard Denis
Nancy Floreen	Michael Knapp
Tom Perez	Steven A. Silverman
	Michael Subin



November 28, 2006

1 George Leventhal,

2 Good afternoon. This is a public hearing on a resolution to approve a license
3 agreement for the use of public right of way at 1203 Fiddler Lane. Action is scheduled
4 following the hearing. We have one witness, Scott Wallace representing 1203 Fiddler
5 Lane, LLC. Mr. Wallace, please proceed.

6
7 Scott Wallace,

8 Thank you, for the record, Scott Wallace, Linowes and Blocker, on behalf of the party
9 requesting license agreement for 1203 Fiddler Lane. We appreciate the work of staff to
10 bring it to this point. Appreciate the MFP committee which recommended approval on
11 the license agreement, it will allow construction of a parking vault, additional spaces to
12 be part of a residential high-rise building in Silver Springs CBD with 151 units including
13 15 percent of them as MPDUs. Would be happy to answer any questions that the
14 council may have.

15
16 George Leventhal,
17 Mr. Andrews

18
19 Mr. Andrews,

20 You should actually stall, we've only got four people here.

21
22 George Leventhal,

23 No, you know what we'll do, we just defer the votes will keep going through the hearings
24 and then we'll stack the votes when we get a quorum. So there's no need to stall.

25
26 Scott Wallace

27 Thank you.

28
29 George Leventhal,

30 Okay, thank you, Mr. Wallace. We will vote later on agenda item number eight. Agenda
31 item number nine is a public hearing on supplemental appropriations to the department
32 of Public Works and Transportations FY07 capital budget and amendments to the FY07
33 through 2012 capital improvements program for the Glenmont Metro parking expansion
34 in the amount of \$4,597,000. Also for the state transportation participation of extension
35 of Watkins Mill Road in the amount of \$8,525,000 and for Watkins Mill Road extended in
36 the amount of \$8,525,000 Action is scheduled later this afternoon and we have six
37 witnesses, Mr. Greg Eisenstadt, Michael McAteer, Mr. Moshe Briel, Miss Loretta
38 Swansinger, Miss Laura McAteer and Mr. John Fay. Will witnesses please come
39 forward, Mr. Eisenstadt, you're first. Please pressed the button in front of the button and
40 introduce yourself.

41
42 Gregory Eisenstadt,

43 Thank you, for the record my name is Gregory Eisenstadt, I am property manager
44 Privacy World Apartments at the corner of Georgia Avenue and Glen Allen Avenue. I



November 28, 2006

1 have been there for 3 years, since 1983. Earlier this year, I think it was April 6, I testified
2 at a public hearing unconditional support on the West Sides parking garage for George
3 Avenue but the condition was that it be the original proposal for metro which is placed
4 on the board now, be made much more compatible with the existing single-family
5 homes 100 feet away on the west side of Georgia. Two weeks ago we represented an
6 enhanced version of the same parking garage with basically a code of paint on the stair
7 towers and around the columns and that is their idea of compatibility. I must strenuously
8 say that I disagree with this. I don't think it is at all compatible. I have brought blown-up
9 photographs of two parking garages, one is completed and one is under construction in
10 Annapolis, that's going to the other extreme with a lot of architectural treatment. I don't
11 advocate that much on Glenmont, but I don't see where we have to build an Industrial
12 building from the 1920's with the windows taken out and plopped in the middle of
13 Glenmont. It is going to be the most visible structure in Glenmont, in my opinion it will
14 negatively impact the visual appearance of Glenmont and frankly will negatively impact
15 the property values are around it unless it is enhanced in a much more compatible with
16 what is surrounding it. I would ask that the council somehow direct staff to go back and
17 make it both the massing and the appearance and frankly the functioning of the Metro
18 Station of the new garage more compatible, They don't even have a walkway a covered
19 walkway from the garage to the metro entrance as they do on the east side. I find it is
20 ridiculous and to be honest with you, I support only funding for a redesign and go
21 through the process of landscape, there should be a landscaping plan and there should
22 be a lighting plan and there should be outreach by Metro. Frankly I am very
23 disappointed in Metro When they first came in 15 years ago or 10 years ago, they were
24 very insolisital as to getting input from the citizens. I have nothing I had no knowledge
25 that they made any out reach to the citizens in the last six months or solicit ideas on
26 how to make it more compatible or more attractive. And I cannot support at this time
27 building the garage. I support funding for redesign of the garages on the west side.
28 Thank you.

29
30 George Leventhal,

31 Thank you Mr. Eisenstadt. Before our next witness, I want to request of staff if we could
32 remove the reserve seating papers from the front row. Yeah, thank you David. Mr.
33 McAteer?

34
35 Michael McAteer,

36 I am Michael McAteer, Vice President of the Glenmont Civic Association. I am pleased
37 the T&E committee directed the public works and transportation to develop an
38 alternative design for the 1200 car garage planned for the Glenmont residential area.
39 The new design would have to meet financial constraints. I hope they come up with a
40 look that masks the garage. As for redesigning the garages it is still 6 floors of cars, a
41 block long and a block wide. Maybe a designer can make it disappear. I hope so. The
42 Glenmont Civic Association expects in the coming months the DPWT will seek the
43 participation of the community in developing a new design. Even though they swore last
44 April that we would be involved, DPWT forgot. From April until November we got no call.



November 28, 2006

1 They invited us to a meeting on November 13th to show us the final design. That is not
2 community participation. County Council, please look into this. This is a significant issue
3 for us. I believe that with regard to the new garages Montgomery county is between a
4 rock and a hard place. Here are some facts. Glenmont was built around 1950 for
5 returning veterans. It has been around awhile. It should get a little respect, not little
6 respect. Glenmont the Metro stop is the fourth largest in Montgomery county, its
7 numbers of riders grows 4 percent each year. Our community is very young,
8 international with many children and is educated. People have moved to Glenmont
9 because it is a metro stop. I estimate our community parks 400 cars daily. 1700 in the
10 east side garage and 700 at metro surface lots at private lots and on the streets. Now,
11 the county wants to park 1200 more cars in the residential west side in an area
12 bordered by houses and Metro entrance and Georgia avenue. People say you're putting
13 cars over their 60-year-old community. The 1994 Glenmont sector plan says the green
14 area near the west side entrance is to be used for a local park community center and
15 town houses. You have voted to make that area a parking garage. Do you remember
16 who signs off on sector plans? Everybody from the county executive, county council,
17 park and planning and community representatives. Does this parking garage mean we
18 should disregard all sector plans? Why doesn't Montgomery county hold a local meeting
19 in Glenmont, explain your plans, show pictures and hear what people say. This has
20 never been done. WMATA held a meeting in Rockville in April, but our association only
21 got a three day's notice. The larger community never heard about it, and speaking of
22 WMATA, why did they hold the meeting? You are elective representatives not WMATA
23 people. Eventually the community will find out what is going on. Is better to tell them in a
24 meeting than to have them get the information piecemeal by rumor and such. Get a flier
25 out. Maybe they will support you. This may interest you. When I was distributing our
26 association flier recently, which is generating many letters and e-mail, I told one man
27 they're going to build a garage on the green space. He said who is? I said who else?
28 Those garages builders. My point is I don't think the council has either communicated
29 with this community about the garage, nor has the community been given a chance to
30 communicate with you.

31
32 George Leventhal,

33 Okay Mr. McAteer, we need to have you wrap up now. But it may be that you can finish
34 in response to a council member's question.

35
36 Michael McAteer,

37 I just one sentence. I know the community is deeply wounded. You need to hear that
38 yourselves. Thank you.

39
40 George Leventhal,

41 Thank you. Moshe Briel, I know him and he's not here. Are you speaking in his place,
42 sir?

43
44 Charles Harris,



November 28, 2006

1 Yes.

2
3 George Leventhal,
4 Okay, your name is?

5
6 Charles Harris,
7 My name is Charles Harris.

8
9 George Leventhal,
10 Need to press the button please in front of your microphone and you may proceed and
11 testify Mr. Harris in place of Mr. Briel.

12
13 John Fay,
14 Alright I shall read his statement in its entirety. My name Mosha Briel, President of the
15 Winding Orchard Citizens Association, a development of 50 Bounded by Randolph
16 Road, Glen Allen Avenue and Kemp Mill Road. I plan to be a long-term resident of this
17 community, Having first moved to the area in 1969 and graduated from John F.
18 Kennedy High School in 1977. I am a local financial consultant with the long-term
19 commitment to a client base in this area as well an active concerned activist who is
20 concerned about the economic well-being of the area. Thanks for the opportunity for a
21 discourse and redress in the spirit of freedom of speech. Thanks for working with us to
22 brave the opinions. The garages purpose is a public utilities is commended. I am here to
23 raise questions on the Glenmont garage. One: What would be the impact of traffic to the
24 Wheaton Central Business District given the possibility that people could choose to park
25 in Glenmont rather than Wheaton? Has the balance of possibility been considered
26 between Glenmont and Wheaton? Has a density been considered? Two. In the
27 framework of the larger development picture, greater separation underpass, Glenmont's
28 shopping center, Fire Station locations, Victory Youth Center, etc. how does this project
29 fit in? Is this a harbinger for Glenmont Shopping Center redevelopment? Three: How
30 will revenue generated from the garages be recirculated locally to, for example, police
31 enforcement, local non CIP's? Four: What type of top-down planning approach has
32 been used? Five: What body would be responsible for oversight? Six: What has been
33 the recommendation of the local representative Glenmont advisory committee? Seven:
34 What are the revenue generators have considered by the Metro Authority including
35 obligation bonds, and advertising on escalator stairwells for example. Eight: What
36 impact has the importance of home based practices on the decision to build a station?
37 Nine: Who is who is the developer and what has what was the selection process used.
38 What was the selection process used? Ten: Why in particular is it critical to discuss this
39 prod to the departure of outgoing county council? Thank you.

40
41 George Leventhal,
42 Thank you very much. Ms. Swansinger? Press press the button in front of your
43 microphone please Miss. Swansinger.



November 28, 2006

1 Loretta Swansinger,

2 My name is Loretta Swansinger. I live at 12415 Flack Street in Wheaton, Glenmont
3 area. I have lived at this address for 37 years and have witnessed many changes during
4 that time. The big one of course was 15 years ago when construction started for the
5 Glenmont Metro Station. During those years we literally sought being built from the first
6 shovel of dirt and all we heard during that time was the west side for anything that came
7 along. Now here we are again with an issue on the west side. When the metro station
8 was completed with open land between the west side entrance and Denly Road, we
9 were told many things. First, a day care center would be built, there, then it was a
10 community center. Now, it's a garage and fire station. Now, that the decision is final for
11 a garage, why hasn't the community had any input as to the final design? It is our
12 residential community on the west side which would be impacted the most. The garage
13 is freestanding and will sticking out like a sore thumb and the design decided upon fits
14 that description. I am a member of the Glenmont Civic Association. I have not as a
15 member or as a neighbor ever received any flyers or any other communication
16 announcing hearings on the final design. After seeing all options I certainly do not
17 approve of the one being voted on. I urge you to put this on hold until community input
18 is considered. Thank you.

19
20 George Leventhal,

21 Thank you for your testimony. Ms. McAteer.

22
23 Michael McAteer,

24 Thank you, my name is Laura McAteer I have been a resident of Glenmont for over 20
25 years. I have one question for county council and you don't have to answer it now.
26 When was this hearing scheduled? We were notified in the early evening on November
27 20th that it would be a hearing. I would like to state that in my opinion, this is not a
28 public hearing. I was encouraged when we were told this council meeting was a public
29 hearing and felt that perhaps the Glenmont community could be heard. I was curious
30 wondering how it was publicized to the community. Since the meeting with Gary
31 Aronrich on November 13th, he described the meeting as a vote, not a hearing. When
32 Delphine Harriston returned the call to confirm that I would be speaking. She said that
33 only five persons would be speaking. I am glad there are six. So now you have gone
34 from having the community represented by three people to having them represented by
35 six. I repeat this is not a public hearing. However, I do appreciate the time that was
36 given to us by the T&E committee yesterday to express our views. I have come to the
37 conclusion that Montgomery County rules by minority, not majority. Reviewing the staff
38 analysis from the WMATA hearing on April 6, I noted that 6 people favored placement of
39 a garage on the west side and four of these were either county officials or
40 representatives from the fire station. Ten persons spoke against the west side
41 placement and 7 favored the east side. By my calculations this is 37-2. I did not recount
42 the county officials. As I stated in my e-mail and letters, there was no community
43 involvement in the design process prior to the decision being made. We were assured
44 many times by many people that, quote, the community will be involved in approving the



November 28, 2006

1 appearances of garage. This did not happen. The only meeting about the design about
2 which I was informed was on November 13th and there were three community
3 representatives present. Greg Eisenstadt, Charles Harris representing the Baptist
4 church and myself. Along with Natalie Cantor and Carol McKensie. Three people are a
5 very small representation of the Glenmont community. Everyone present expressed
6 disapproval of the design. We were told that comments were welcome but the Version
7 "A" was going forward for a vote by the T&E committee and then the county council.
8 Comments I have heard included it's ugly, looks unfinished, looks like an Industrial
9 warehouse with windows knocked out and looks like a prison. The improvements
10 consisted of adding a brick designed to the tower in the vertical column. In my opinion,
11 this is no improvement at all. Community participation does not mean rubber stamping a
12 design as it is going forward. A sign of pride in workmanship is said to be indicated by a
13 signature. Given the unflattering description of this building, would you be willing to put
14 your names on it? Not collectively as the county council but individually. After all, you
15 voted for it. Why the rush? The garage will be around for a long time. Please delay the
16 approval of this design and allow the community to participate in the design selection
17 process. It is in our community and we are the ones that have to live with it.

18
19 Council President Leventhal
20 Thank you Thank you. Mr. Fay.

21
22 John Fay,
23 Good afternoon, President Leventhal and members of the council. My name is John
24 Fay and I live in Wheaton or as sometimes call it East Glenmont. The future of Georgia
25 Avenue is a light rail line moving up to beat the Baltimore transit system. Unfortunately
26 through lack of vision over several decades we must deal now with motor vehicles
27 driving down to Glenmont from points near and far. Okay so we build another parking
28 deck but do all six levels have to tower over our community of single-family homes? I
29 realize that the most noticeable Glenmont landmarks are the awful shopping center and
30 the unsightly water tower. That doesn't have to mean however that anything new must
31 be that bad. The parking deck should be either be built on the east side of Georgia or
32 built on the west side with no more than three levels above ground. In addition, it should
33 be built so as to be as presentable as a parking deck can be. The facing brick, window
34 boxes for plants, etc. Of course, such improvements would cost more. But isn't
35 Glenmont worth it? Don't tell that us we don't matter. After all a county is willing to
36 spend big bucks on the Montrose Parkway and the state even more on the ICC. Vote
37 for the benefit of special interests. Please treat the people of Glenmont justly and build
38 the parking deck right. Thank you.

39
40 George Leventhal,
41 Vice President Praisner

42
43 Marilyn Praisner,



November 28, 2006

1 Thank you very much. I assume, I'm not sure when we will come to the action part of
2 the decided since it is scheduled yeah but we've gonna doing the hearings and go back
3 and do the actions.

4
5 George Leventhal,

6 Well actually we might as well since the since the members of the audience are here
7 for this item, my expectation would be as soon as this hearing is concluded we would go
8 ahead and vote on this,

9
10 George Leventhal,

11 And then what I'll do is hold the vote on agenda number eight until the very end
12 assuming more that you know that more council members will be on their way in. So we
13 will resume the ordinary order, but vote on agenda item eight at the end of the
14 afternoon.

15
16 Marilyn Praisner,

17 There are a whole series of questions that were asked by the representative of Winding
18 Orchard Citizens Association that go well beyond the issues that are in front of the
19 council today. If we don't have a copy of the written testimony, I would hope that you
20 would submit it such that we can prepare a response. A response for you that responds
21 to all of those issues that many of which are not related exclusively to the Glenmont
22 garage. I think I it is important, I appreciate the comments of the community on this. I
23 think it's important today as we go through the process, I know the community did not
24 nor did I, support placement of the garage on the west side of Georgia Avenue. That
25 decision has already been made. The decision we're faced today is approval of funding
26 in the CIP for a WMATA garage. Mr. Orlin or Miss. Floreen from the T&E committee can
27 work through the process of why we're here and why we are here today. I must say
28 though that I am extremely troubled, I assume the T&E committee had some
29 conversation about it and we'll talk about it when we get to the get to the discussion and
30 the action but I am extremely troubled by the fact that the first and only question I asked
31 Mr. Orlin when I was shown the design's was what has been the community input and
32 involvement? I was assured there had been community input and involvement. A
33 meeting with three people is not, in my view, a community involvement process. That
34 also said, I I never believed that community involvement means the community gets to
35 choose the design. But there is I think an expectation of some participation and
36 meaningful involvement without making some choices that are nominal in the process.
37 So, I hope when we get to the discussion of this after this hearing is closed, we can
38 have a more comprehensive conversation of just exactly what constituted community
39 involvement, who participated, how was the out reach, this decision about the garage, it
40 was made a while ago, it was not without it's opposition within the community, but that
41 still doesn't mean the community has abdicated its right to participate in the process.

42
43 George Leventhal,



November 28, 2006

1 Okay well, it appears there are no additional questions for the witnesses. So what the
2 council will now do is proceed. Miss. Floreen do you have a question for the witnesses?

3
4 Miss. Floreen,

5 No

6 George Leventhal,

7 So we will now do is proceed in to the council's discussion of this item, this
8 supplemental appropriation for Glenmont garages as well as the two items relating to
9 Watkins Mill Road. So we are now going to discuss the supplemental appropriation.
10 Chairwoman Floreen?

11
12 Miss. Floreen,

13 Thank you, Mr. President. As you will all recall and as Miss Praisner just noted, the
14 council did take this up, in approval of the CIP last spring, and at that point we were
15 concerned about the community issues here And they're not satisfied with there being a
16 garage here. But what we had approved was basically a six story garage on the west
17 side of Georgia.. So what we had instructed staff to do is to look at the design, see what
18 they could come up with which was more compatible to the community. and you know
19 the devil in all the details here and this is one situation that's truly the case. What we
20 also discovered was that this did not go through the mandatory referral review by park
21 and planning for reasons that we cannot explain. That that is to happen. So that there
22 will be some further attention to on number of details that the community is concerned
23 about. Remember that this is a very complicated location with a whole lot going on. The
24 intersection improvement at Georgia and Randolph, the relocation of the Kensington
25 Fire Station, and then this garage which of course is slated to remove some of the
26 challenges that folks in this neighborhood live with every day trying to get a parking
27 space in this garage as I recall, our information is this lot is full at 7:30 or so in the
28 morning, and so, if someone shakes hands, I can tell you that's true. They gotta get
29 there early. The fact of the matter is it you know it it's addressing of very significant
30 transit need here to locate a garage. But we are very concerned because this is I think ,
31 I think it's the only one that is this close, a single-family detached neighborhood, and
32 that's why when we heard from the neighbors, And we had a good exchange yesterday
33 in the committee meeting about the options -- you can see back here, the white design
34 here is your basic vanilla garage. The next one over -- Do you want the pointer Nancy?
35 Oh yeah, yeah I know we have pointers. Don't push.

36
37 Glenn Orlin,

38 That is --

39
40 Unidentified,

41 I will do it.

42
43 Miss. Floreen,



November 28, 2006

1 That is the less expensive design. The first one the department set up with, the second
2 one is the one that DPWT recommended. I am not sure if this is before or after their
3 unsuccessful community session. It basically is the same design as the one that exists
4 on the other side of Georgia. After hearing more from the community last night, the
5 committee recommends and you have a supplemental memo somewhere in your last
6 pile of reading material. What we have recommended that you we go with a third
7 approach or something along those lines. Basically what is before us is the cost
8 increase for the garage. We are not really approving the design so much as we are
9 approving the cost increase. The basic cost increase of this project is \$3.29 million.
10 What we had the DPWT design there the adjustment to make it look like the existing
11 garage on the other side of Georgia is valued at about \$1.3 million. And to do the third
12 arrangement of additional brick basically on their project, it adds another \$684,000. We
13 thought that was worth it to try to address some of the relationship issues that the
14 neighborhood is concerned about. As has been pointed out in some of the
15 correspondence this is one of the first things you see as you drive up Georgia Avenue
16 beyond Glenmont, it will be very visible. It is right up adjacent to Georgia Avenue, it's
17 very close, And the good part about that is that it is farther away from the residences,
18 but certainly it's going to change their sense of their community, Right now there is
19 significant green space well there is some green space behind it which will help in the
20 relationship there. And we think that putting that additional money on the table is
21 warranted. This can be so what the committee recommendation is to appropriate an
22 additional \$5.281 million, right Glen? Glen who is on the phone? And that would be our
23 recommendation. Basically WMATA and DPWT Look to see if within the contours of
24 that dollar amount we can add some add maybe a different arrangement of brick or
25 design that would improve the appearance of the building. The challenge for all of this is
26 that is on Has to be approved by WMATA to go they are doing an RFP now Glen?.

27
28 Glenn Orlin,
29 They will once
30 It will be released in the next few months if this is approved.

31
32 Councilmember Floreen,
33 It is designed for construction to begin this spring?

34
35 Glenn Orlin,
36 This summer.

37
38 Councilmember Floreen,
39 This summer. So time is really of the essence here, the fundamental challenge of
40 locating a large garage here isn't going to go away. The issue of some of the design
41 elements we would hope could be addressed in the mandatory referral environment as
42 well as what their engineering staff can come up with in terms of some additional
43 improvements. To go with a nice kind of garage that you all remember this one done in
44 Annapolis, it was was it \$13 million more. We can't afford it but we think that the



November 28, 2006

1 additional \$600,000 would go would help to ameliorate the concern of the community,
2 it's a garage. Bottom line, it is a garage and it is going to be a garage, it going to look
3 like a garage, it's going to feel like a garage, it's also going to be balanced with the new
4 fire station on that side as well. It's going to have a different look and feel in Glenmont,
5 no question about it, but I think these additional dollars can address the community's
6 concerns to the extent that they can be addressed. And so we we are sorry for them
7 that they don't feel they were involved extensively in the conversation. We don't think
8 the conversation is going to end and we encourage, we want the parties to continue to
9 talk about the design elements. There are always different points of view on how some
10 things should look. But we think that this additional dollars will give some room for
11 further negotiation and further improvements. So that is the committee
12 recommendation.

13
14 Councilmember Leventhal,

15 I just wanted to comment as a member of the committee, I know Ms. Praisner is eager
16 to speak as well. I really hope that WMATA and DPWT can think about this a different
17 way. We are providing a certain amount of money and we're not telling them, We are
18 blessing this third design we're saying let's see if we can come up with something within
19 the money available. So the fact that an artist has produced this design does not
20 necessarily mean that is the final outcome. And as the chair has stated, we hope the
21 park and planning will weigh in and that park and planning will provide another
22 opportunity for public input. We also discussed yesterday, when ultimately, we get a
23 Glenmont sector plan or you know a master plan amendment in the next few years
24 which surely is to come as we continue the process of looking at our metro station hubs
25 in a new and innovative way. Even if this garage is coming and it will be constructed by
26 then, there may be other opportunities then to look at some structural modifications or
27 additions that might be in keeping with whatever what we ultimately decide Glenmont
28 should look like which all of us agree we want it look different than it looks today, not
29 just the west side of Georgia Avenue but the entire shopping area. Glenmont is an area
30 undergoing significant change and it will continue to undergo significant change,
31 significant transportation improvements. We're gonna have a underpass, overpass at
32 Georgia Avenue and Randolph Road, I know that is not universally popular with the
33 neighbors however I think it will substantially increase the attractiveness and desirability
34 of the area for investment and the accessibility of the area And I think that for the
35 neighbors in the relatively near term I think within in the next decade, you are going to
36 see more amenities, more attractive options for shopping and recreation, better use of
37 space, better access to Metro, better access by automobile. I really want to say that
38 everything that the neighbors' have said today resonates with me. I would love to see
39 rail transportation north on Georgia Avenue that would be great. One day maybe we'll
40 get there maybe it will be a busway rather than a light rail line, that's all under
41 discussion. Hope springs eternal, we have a new governor coming into office and let's
42 hope that the commitment to mass transit is much greater under the new state
43 administration than it was for the last four years, so I mean all of the things that the
44 neighbors have said I've listened to carefully and I think that good things are going to



November 28, 2006

1 happen in Glenmont over the next few years. I wish we could design something that
2 were and I hope we can and I hope there is still an opportunity to design something that
3 is more creative and more innovative than what we see here, so I don't consider as I
4 prepare to raise my hand and vote for this supplemental appropriation, I don't actually
5 consider that I am voting for that, although I was happy to support the chairs motion to
6 vote for the additional money to get us closer to something that looks more desirable
7 and I would be open to further discussions in that in that regard as well.

8
9 George Leventhal,

10 I do agree with the chair that substantial undergrounding or you know encasing the
11 entire thing in brick based on the cost estimates we got yesterday is probably prohibitive
12 and in response to Ms. McAteer when you said is there a rush, I have say. I'm very
13 sympathetic to my constituents in Glenmont, I'm also very sympathetic to my many
14 many constituents around the county and I heard from many this year that who have
15 asked me when will the new Glenmont garage open, I like parking there and I can't find
16 a space, There is a lot of demands in response to the testimony read on behalf of my
17 friend Moshe Briel, I don't for a moment believe the opening of the Glenmont garage is
18 any way going to hurt the economic activity in Wheaton, I know that there is an
19 enormous unmet demand for parking at Glenmont which is the terminus of the red line
20 on the east side and which doesn't only serve Montgomery County constituents, it
21 serves Howard County constituents and Carroll County constituents, so I I do see a
22 great need for this garage, I know perhaps the neighbors would rather it not
23 constructed, I do believe the greater good is served by constructing it, But I would like to
24 continue to work the community to make it as attractive as possible. And even if we
25 build something now I'm very open if this comes up during my tenure on the council, I
26 don't know exactly when when we are going to get a Glenmont sector plan to taking
27 another look at as we look at reconfiguration of the entire Glenmont area. Ms. Praisner.

28
29 Councilmember Praisner,

30 The Glenmont sector plan isn't that old so I think we will see some redevelopment in
31 that area at some point based on the zoning that was placed there through the sector
32 plan that exists now. I think the community's concern is that the expectation for the
33 sector plan is that the garage would be in a different place so that's their number one
34 concern. As I said that isn't obviously the topic for this afternoon's discussion. The topic
35 is providing funding to WMATA approving the PDF for the WMATA project that will allow
36 the garage to go forward and while folks may like or want some And and I do think there
37 are significant projects that are planned for the general area of Layhill and Georgia
38 Avenue and Randolph Road, all of which a question of the sequencing, timing and
39 impacts and how one will adjust from a stand point of those who are visitors to the area
40 and how one will adjust from the standpoint of who is a resident in the area will and are
41 important issues that I hope will the future county executive as of Monday and the
42 council and the planning board can use as an opportunity to model the behavior we
43 want of pulling things together so that there's someone watching all of these things to
44 make sure they knit together well, which Montgomery County has not had a good



November 28, 2006

1 reputation for in my view. It's something we have talked about on the council in the past
2 four years that's needing to be done. I still need before I will vote for this project money
3 appreciating that we are not talking about approving a specific design. We are adding
4 additional revenue. There will be mandatory referral at the planning board where the
5 community can additionally weigh in. What I want to know from WMATA and DPWT
6 representatives here today, is what they plan to do to increase the dialogue with the
7 residents related to this garage project beyond responding to what might be said at the
8 mandatory referral public hearing at park and planning. I wanted some assurances that
9 this isn't a fait accompli as far as the design is concerned. And there will be some
10 continued conversation with the community recognizing that we're not going to go down
11 and even the garages that are shown from Annapolis have a beautiful brick facade but
12 they're not as large from a stand point even though they go down they don't go down
13 five or six levels. They are smaller garages, there are a lot more of them in Annapolis
14 and downtown Annapolis And there are fewer their sizes, two stories or maybe three but
15 they're not the large size that we're talking about. That said, it's clear that the plan didn't
16 call for it to be on the west side. Edgar, are you or anyone from either WMATA or
17 DPWT can respond to me that there will be, whether it's landscaping or design issues
18 and the walkway questions, whether there can will be some opportunity for further
19 conversation about those.

20
21 Edgar Gonzales,

22 Thank you. Ms. Praisner The very first thing we have to say is that the garage that is six
23 floors, that's going to be 1200 parking spaces and that is very difficult to hide. It's
24 impossible to hide.

25
26 Councilmember Praisner,

27 I'm not looking for a stealth garage. I know that's impossible.

28
29 Edgar Gonzales,
30 Good

31
32 Councilmember Praisner,

33 What I'm looking for is something that provides some aesthetic buffer, some
34 responsiveness to the community that is nearby. Obviously the closer it is to Georgia
35 Avenue the better it is. But there it's still a very large project.

36
37 Edgar Gonzales,

38 But it is the conflict, the closest to Georgia Avenue, the better it is because we provide
39 additional buffer in the back but at the same time,

40
41 Mr. Knapp,

42 It provides more visibility as you arrive so those are the things that we have to balance.
43 You can be assured that we will work with WMATA and see what possible landscaping
44 measures, there was some discussion yesterday about possible hangers or some sort



November 28, 2006

1 some sort of material that gives it a more green look. We're looking into things like
2 those. We will present them to the community but the size and location is important for
3 the community to realize that those issues had been decided and if we move from that
4 point on then it's much easier to deal with. What we can do and to realize that in order
5 to provide additional enhancements there may be a need for additional money and that
6 is also important to recognize. If that happens and we work with WMATA and remember
7 this is going to be a WMATA garage. This garage that is going to be maintained 67% or
8 63% with money from outside of Maryland. So the other organizations, the other, you
9 know the State of Virginia, the counties and the district will have a say on what goes
10 here because it's not totally under our total control.

11
12 Edgar Gonzales,

13 Like with any other garage they become property of WMATA that will run them for good.

14
15 Councilmember Praisner,

16 I appreciate that. A garage is a garage is a garage. There's only so much that you can
17 do, I think the community isn't expecting it too look like the Eiffel Tower. It can only have
18 certain limitations in it and I am no sure everybody would want the Eiffel Tower behind
19 their near their home either. My point being though is that if you seriously approach
20 mandatory referral I guess I don't have the same if-- if there are public safety issues
21 associated with proximity to Georgia Avenue, certainly I am anxious to hear what they
22 are or the community is anxious, but the reality is driving by approaching an underpass
23 which is where you're focus is going to be in the future not on the garage you're driving
24 by except for the signage that tells you where you need to go, It's all that I think
25 somebody who is driving on Georgia Avenue is going to be focused on but the folks
26 who is live behind the garage, near the garage are going to be there every day going
27 outside to use their barbeque, to play with children, etc and therefore whatever we can
28 do to make the neighbor a silent yet but not intrusive neighbor recognizing it's a garage
29 and it can't be anything more than that, that would be what I would encourage including
30 whatever kinds of aesthetic elements. I appreciate the committees approach to this
31 issue. I know we need the garage and there are folks in the Glenmont area who want
32 this garage and wanted it yesterday, so I don't think when the community folks came
33 and spoke some of them still continued to oppose the garage but there are many people
34 who live in that area from Winding Way Orchard area who want this garage so it isn't a
35 universal opposition from the neighbors. It is a concern of those who live behind the
36 garage who expected that the second garage would be across the street from them.
37 Efforts that can be done from a walk way perspective to make it attractive but also to
38 make it a better neighbor is all I am asking. And I'm also asking for what I would believe
39 would be the kind of dialogue and communication that should have occurred sooner.

40
41 Edgar Gonzales,

42 On the on the canopy it is something that also has been brought up, we will look into
43 that. We're talking probably half a million dollars. Once we know what we can do we will



November 28, 2006

1 present that to the community also separately and we will come back to you because
2 the two actions can be can be tackled independently.

3
4 Councilmember Praisner,

5 What I would like as a follow up to this action is that the Mr. Orlin, if the council can be
6 provided with information of the status of meetings with the community so that we get a
7 report of those follow up meetings and whatever out come obviously and to make sure
8 that well park and planning has it's own process for but mandatory referral to make sure
9 the community is aware of that, again, as I said it is a given that the council has already
10 voted for the garage in this location. There's nothing that I see to reverse that, but to try
11 to make it a better neighbor is what I am advocating for. Thank you.

12
13 George Leventhal,

14 The matter now before the council is the supplement appropriation as recommended,
15 I'm sorry .

16
17 Councilmember Floreen,

18 I just want to draw your attention to the fact there are a couple other elements to this. I
19 know if you want to go into them besides the Metro Parking Expansion, there is Watkins
20 Mill Road extended and on an amendment to the State Transportation participation
21 project that we recommend. I don't know if anyone wants to get into to any of that we
22 spend a certain amount of time

23
24 George Leventhal,

25 Maybe a one sentence description.

26
27 Councilmember Floreen,

28 Well here it is on your addendum. (laughing) The Watkins Mill Road extended is
29 basically amending the CIP to create a new project, We're appropriating money based
30 on \$2.6 million in development impact tax collected from the City of Gaithersburg, a
31 million dollars in inter governmental aide from Gaithersburg, With the balance of that
32 from general obligation bonds.

33
34 Council President Leventhal,

35 Thank you. Okay the supplemental appropriation for Mr. Knapp?

36
37 Mr. Knapp,

38 Sorry, just a quick question.

39
40 Glenn Orlin,

41 Glenn, can you explain a little further this notion of why we can't use the liquor funds
42 revenue bonds? The state transportation participation PDF, that you approved last May
43 explicitly said that the only projects that could be funded with it were projects on the
44 executive and council priority list.



November 28, 2006

1
2 Mr. Knapp,
3 Okay

4
5 Glenn Orlin,
6 Of the interchanges, this road is not.

7
8 Mr. Knapp,
9 Okay, alright. Thank you.

10
11 Glenn Orlin,
12 The interchange is but the roads connecting to it are not.

13
14 George Leventhal,
15 Mr. Andrews.

16
17 Mr. Andrews,
18 One aspect of the Watkins Mill Road project that is important to know, the extended
19 project is The land for the new six district police station is part of this and will be
20 donated for that purpose by the developer of the property near by so we've all been very
21 eager to see the six district station move forward. The current station is inadequate for
22 the needs and we want to see this move forward as quickly as possible to get the facility
23 we need for serving the Gaithersburg, Montgomery Village area with the police services
24 that is are needed.

25
26 Council President Leventhal,
27 Okay, the supplement appropriation is before the council. Those in favor will signify by
28 raising their hands. It's unanimous among those present .

29
30 Glenn Orlin,
31 This will be on all three of the items?

32
33 George Leventhal,
34 All three together, single recommendation from the T&E committee.

35
36 Glenn Orlin,
37 Right. Thank you.

38
39 Council President Leventhal,
40 Agenda item ten is a public hearing on a supplemental appropriation to the Montgomery
41 County Public Schools FY07 operating budget for the real estate management fund in
42 the amount of \$220,000. There are no speakers for this hearing. We need a motion, I
43 don't did this go before the ED committee.



November 28, 2006

1 Councilmember Praisner,
2 No.

3
4 George Leventhal,
5 So we need a motion to approve. The source is from the Rem funds rental revenue
6 \$220,00 for the real estate management fund. I see that Ms. Praisner wants to speak to
7 it, Mr. Perez has moved and Mr. Knapp has seconded approval of this \$220,000
8 supplemental appropriation, Ms. Praisner.

9
10 Councilmember Praisner,
11 I don't have any problems with the request to approve it but I think that the Management
12 and Fiscal Policy committee has an issue of overall discussion of lease versus owned
13 buildings and of just the long range plans for public facilities and I think it may have an
14 implication with county school system buildings and lease space as well as we look at
15 this in a comprehensive way within the next year so I just wanted to make that point.

16
17 George Leventhal,
18 Okay, those in favor of the supplemental appropriation is signify by raising their hand.
19 It's unanimous among those present. Agenda item 11 is a public hearing on spending
20 control limits that the Montgomery and Prince George's County council must set for the
21 FY08 budget of the Washington Suburban Sanitary commission. The process requires
22 that the two county council set annual ceilings on WSSC's new debt service, water and
23 sewer operation expenses and the maximum average rate increase. There are no
24 speakers. The spending control limit has been agreed to by the T&E committee and
25 they are now before the county council. If there are no questions we can vote.

26
27 Keith Levchenko,
28 I just want to clarify the T&E Committee introduced limits on October 31st. The T&E
29 committee did not meet subsequent to that, so we have something that was introduced
30 or agreed upon by the committee for introduction and entries by the council. We don't
31 have a formal committee.

32
33 Councilmember Praisner,
34 You don't have a recommendation.

35
36 George Leventhal,
37 So we need a motion. Chairwoman Floreen, did you want to make a motion in favor of
38 the spending control limits?

39
40 Councilmember Floreen,
41 Uh, yes.

42
43 Councilmember Praisner,
44 Second



November 28, 2006

1
2 Council President Leventhal,
3 Miss Floreen has moved and Ms. Praisner has seconded the proposed spending control
4 limits for WSSC Those in favor will signify by raising their hands. It's unanimous among
5 those present. Agenda item 12 is a public hearing on a resolution to amend
6 transportation fares, fees and charges, to establish free parking for motorcycles in
7 spaces in areas where only motorcycle is permitted. (laughing and varooming) Action is
8 scheduled right now there are no witnesses and this is consistent with agenda item 13
9 as well. Chairwoman Floreen.

10
11 Councilmember Floreen,
12 As you, the TpercentE is committed to various forms of transportation and will see what
13 the new council members, what vehicles they choose to ride to work. Maybe we will
14 have some bicyclists but we, number 12 is amending our transportation charges to
15 permit free parking for motor cycles in open spaces within garages where motorcycles
16 parking is already permitted and then some clarification under expedited Bill 47.06 to
17 clarify where those spaces would be.

18
19 George Leventhal,
20 Just to be clear this would allow free parking only in spaces that cannot be used by
21 automobiles. So these are basically the dead spaces in parking lots that can't be used
22 for any other purpose but are large enough to vacillate motorcycles and they will be so
23 marked. You know, no marking except for motorcycles.

24
25 Councilmember Silverman,
26 Does a Vespa count?

27
28 Council President Leventhal,
29 A Vespa counts. Mr. Perez?

30
31 Councilmember Perez,
32 I want it to be recorded in the affirmative on the preceding two votes, please.

33
34 Council President Leventhal,
35 With that objection, Mr. Perez will be so recorded. So we're now voting on the resolution
36 relating to transportation fares, fees and charges as recommended by the T&E
37 committee.. Those in favor will signify by raising their hand. It is unanimous among
38 those present. Agenda item 13 is the essentially the same issue but it's legislation
39 expedited bill 47.06 which would allow motorcycles to park in a motorcycle parking in
40 certain no parking zones and in areas not designated as spaces for automobiles and
41 generally amend the law governing parking of motor vehicles. There are no witnesses,
42 action is scheduled immediately. Again this is same issue we just discussed. It's just we
43 had to amend the fee schedule as well as pass this legislation. Chairwoman Floreen did
44 you want to make any further comments?



November 28, 2006

1
2 Councilmember Floreen,
3 Just to point out that this appears to be a daily obligation of ours to offer some clarity
4 where it's not evident in our bonus regulatory structures and this is just one part of the
5 job.
6
7 Councilmember Praisner,
8 Small step for clarity.
9
10 Councilmember Floreen,
11 Yep, yeah
12
13 George Leventhal,
14 Those in favor of expedited Bill 4706 as recommended by we need a roll call vote.
15
16 Council President Leventhal,
17 Yep, the clerk will call the roll.
18
19 Council Clerk,
20 Ms. . Floreen.
21
22 Councilmember Floreen,
23 Yes.
24
25 Council Clerk,
26 Mr. . Silverman.
27
28 Mr. Silverman,
29 Yes.
30
31 Council Clerk,
32 Mr. Knapp
33
34 Mr. Knapp,
35 Yes
36
37 Council Clerk,
38 Mr. . Andrews.
39
40 Mr. Andrews,
41 Yes.
42
43 Council Clerk
44 Mr. Perez



November 28, 2006

Councilmember Perez

Yes.

Council Clerk,
Ms. Praisner.

Councilmember Praisner,
Yes.

Council Clerk,
Mr. Leventhal

Council President Leventhal,
Yes with enthusiasm. (laughing) Thank you very much. Agenda item 14 is a public hearing on expedited Bill 46-06 bond authorization, which would authorize the county to issue certain bonds to fund capitol projects that the council has approved. There are no witnesses.

Councilmember Praisner,
I move approval.

George Leventhal,
Great, can we get a one sentence explanation of this, what is this?

Councilmember Praisner,
It consolidates the bonds and allows the county to sell the bonds in the aggregate as opposed to the way they have the authority now. It's bond note capacity, it's bond note capacity.

George Leventhal,
So it's debt consolidation?

Councilmember Praisner,
No bond authorization.

George Leventhal,
Bond authorization, ah, okay. Well very good. The clerk will call the roll.

Council Clerk,
Ms. . Floreen.

Councilmember Floreen,
Yes.



November 28, 2006

1
2 Council Clerk,
3 Mr. . Silverman.
4
5 Mr. Silverman,
6 Yes.
7
8 Council Clerk,
9 Mr. . Knapp
10
11 Mr. Knapp,
12 Yes.
13
14 Council Clerk,
15
16 Mr. . Andrews.
17
18 Mr. Andrews,
19 Yes.
20
21 Council Clerk,
22 Mr. . Perez.
23
24 Mr. Perez,
25 Yes.
26
27 Council Clerk,
28 Ms. . Praisner.
29
30 Councilmember Praisner,
31 Yes.
32
33 Council Clerk,
34 Mr. . Leventhal.
35
36 George Leventhal,
37 Yes. The bill passes 6-0. We still need to vote on item
38
39 Councilmember Praisner,
40 That's a committee.
41
42 George Leventhal,



November 28, 2006

1 7-0. Are there seven of us here. Math was never my strong subject. We still need to
2 vote on agenda item number 8, there is a committee recommendation from
3 Chairwoman Praisner.

4
5 Councilmember Praisner,

6 The Management and Fiscal Policy committee, I'm sorry, this is a licenses was noted in
7 the public hearing to approve the license agreement for use of the right of way at 1203
8 Fidler Lane and the committee recommends approval.

9
10 George Leventhal,

11 All right. Mr. Perez, Mr. Silverman. This will be your last vote on the county council. The
12 clerk will call the roll. Are we voting on another? Huh, oh, it's a resolution.

13
14 Mr. Perez,

15 It's still going to be my last vote.

16
17 Councilmember Praisner,

18 It's a committee motion.

19
20 George Leventhal,

21 Those in favor of the license agreement for the you know after all these years in public
22 service what you want to be remembered for is the use of the public right of way for
23 1203 Fidler Lane, LLC.

24
25 Councilmember Perez,

26 Giving new meaning to paying the fiddler.

27
28 Council President Leventhal,

29 I'm trying to string this out as long as possible. I've so enjoyed serving with Tom and
30 Steve, I'm so reluctant to let them go. Those in favor will signify by raising their hands.
31 It's unanimous among those present. And this concludes the 15th County Council. What
32 whoa Mr. Sherer wants to keep us here. Whoa slow down, whoa, whoa , don't leave.
33 What? Page 6 page 6 of what?.

34
35 Councilmember Praisner,

36 We did that.

37
38 George Leventhal,

39 We did that -- it's done.

40
41 Councilmember Praisner,

42 Oh the legislation

43
44 Unknown Speaker,



November 28, 2006

1 You voted on the Bill but not on
2
3 George Leventhal,
4 We need a resolution. Is there a motion.
5
6 Unknown Speaker,
7 Two more votes. Hold on I'm thought you were getting an explanation. I'm not going to
8 vote for anything I don't have an explanation on.
9
10 George Leventhal,
11 Okay alright. After four years of voting -- .
12
13 Councilmember Perez,
14 I want to know. I have after new policy. I now want to know what I'm voting on.
15
16 George Leventhal,
17 It's all in the memo. Those in favor of consolidating the issuance of certain authorized
18 bonds will signify by raising their hands.
19
20 Councilmember Perez,
21 I don't know which ones.
22
23 George Leventhal,
24 The vote is unanimous among those present, thank you all very much
25
26 Councilmember Praisner,
27 And we have the motorcycle fee.
28
29 George Leventhal,
30 No we did it. We did that. We did the fare Steven charges. We did the motorcycle
31 resolution. We did
32
33 Councilmember Perez,
34 Do it again, just in case.
35 Councilmember Praisner,
36 Do it again, just in case.
37 George Leventhal,
38 No no look I know we did that. We did the motorcycle resolution. I'm paying attention on
39 the motorcycle stuff..
40
41 Councilmember Praisner,
42 He did it with the actual hearing.
43
44 George Leventhal,



November 28, 2006

- 1 You know people are watching us at home and they think we have fallen apart here and
- 2 we were doing so well. Meeting adjourned. The county council is adjourned.
- 3